

STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 WAYNE DOBRATZ, *
 *
 Appellant, *
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 v. *
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 Secretary, DEPARTMENT OF *
 NATURAL RESOURCES, and *
 Administrator, DIVISION OF *
 PERSONNEL, *
 *
 Respondents. *
 *
 Case No. 82-40-PC *
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DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b) of the denial of a request for reclassification of appellant's position from Natural Resources Assistant 2 (PR3-06) to Natural Resources Technician 1 (PR6-08).

FINDINGS OF FACT

1. At all times relevant to this appeal, the appellant has been employed as a Natural Resources Assistant 2 (NRA-2) at the Department of Natural Resources in the North Central District.

2. The appellant's request for reclassification to Natural Resources Technician 1 (NRT-1) was turned down by the Department and the written notice of the reclassification denial was delivered to the appellant on January 28, 1982. (Appellant's Exhibits 7, 8).

3. On February 26, 1982, the appellant timely filed an appeal of the reclassification decision with the State Personnel Commission (Appellant's Exhibit 8).

4. The department's (DNR) review of the appellant's request for reclassification included a review of the appellant's assigned duties as indicated on a position description dated April 24, 1980; an on-site audit which involved discussions with the appellant and Mr. Elburne Mertz, District Fish Operations Coordinator NC District; a review of the NRA-2 and NRT-1 class specifications. The on-site audit was done on October 9, 1981.

5. A revised position description for the appellant was prepared at the NC District headquarters in April of 1981. However, no copy of this position description can be located at the NC District or in the Department's files in Madison. Were such a document available, it would not include the duties regarding the "Kalepp Co-op ponds" or the position of "Assistant Hatchery Foreman" as these duties were assigned/designated at some point in time subsequent to the April, 1981 preparation of the position description.

6. In June of 1981, appellant was assigned the responsibility of the N.C. District Cooperative Walleye rearing ponds (the Kalepp pond).

7. Appellant's duties relative to the co-op rearing ponds were, to some extent, discussed during the October, 1981 on-site survey.

8. The co-op agreement with Mr. Kalepp came about because there was an increased need for stocking walleye fingerlings in Lake Michigan water and the state rearing ponds did not have the capability to produce the needed numbers of fish. (testimony of Mr. Elburne, District Fish Operations Coordinator).

9. The N.C. District's participation in the cooperative Walleye project "came up in a relatively short order" and there was "really no opportunity to try to integrate this [the co-op agreement] within our regular programs." (testimony of Mr. Ensign, District Chief of Fish Operations).

10. On an annualized basis, the amount of time the appellant spends coordinating all district cooperative rearing pond operations is 10% of his time. (Appellant's Exhibit #9 and Appellant's brief of 8/5/82).

11. The coordination of the co-op Walleye rearing operation does not represent a "logical and gradual" change in the duties or responsibilities of the appellant's position.

12. The definition of Natural Resources Assistant 2 contained in the NRA-2 Class Description is as follows:

This is semi-skilled work in the areas of fish, forest and game. Employees in this class function primarily as (1) assistants to professionals with area program responsibility; (2) working crew chiefs over a small crew; (3) equipment operators; or (4) any comparable combination of the above. Greater independence, initiative, and latitude in performance of duties distinguishes this class from the Natural Resources Assistant 1 class. Work is performed under the general guidance and direction of a Natural Resources Technician or Natural Resources Specialist. (Respondent's Exhibit #1)

13. The definition of Natural Resources Technician 1 contained in the NRT-1 Class Description is as follows:

This is responsible technical work in the areas of fish, forest and game. Employees in this class function as: (1) special assistants to professionals with area program responsibility; (2) working crew chiefs over a large permanent crew; (3) district field crew chiefs; (4) specialized equipment operators; or (5) in fish operations, serves as an assistant in a large hatchery or rearing station; or directs a small combination hatchery and/or rearing station. (Respondent's Exhibit #2)

CONCLUSIONS OF LAW

1. This matter is appropriately before the Commission pursuant to §230.44(1)(b), Wis. Stats.

2. The appellant has the burden of proving that the respondents' decision denying the reclassification of appellant's position from NRA-2 to NRT-1 was incorrect.

3. The appellant has failed to meet that burden of proof.

4. Respondents' decision denying appellant's reclassification was correct.

OPINION

Appellant bases his appeal of the denial of the reclassification on the addition of new duties since 1980. These duties were: 1) Co-op pond duties and 2) functioning (in the opinion of the appellant) as Assistant Hatchery Foreman (Appellant's Exhibit #8).

Section Pers. 3.01(3), Wis. Adm. Code provides in part:

"Reclassification means the assignment of a filled position to a different class by the administrator as provided in §230.09(2), Stats., based upon: (a) A logical and gradual change to the duties or responsibilities of a position;." It is this requirement of "logical and gradual change" upon which a decision in the instant case will be reached.

The testimony indicated that the assumption of program responsibilities for cooperative raising of Walleyes by the North Central DNR District was rather sudden. There was not a great deal of lead time, the work was "there to be done" and it was not possible to integrate this project with the regular programs of the District. This rapid assumption of program responsibilities and the resulting assignment of the Appellant to coordinate the co-op program does not meet the test of a "logical and gradual" change in the position duties or responsibilities of the appellant.

Assuming, arguendo, the change was "logical and gradual", the position would then have to be examined to determine how much of the position's duties and responsibilities were now being performed at a level higher than the original position level. In the examples of work performed cited in

the NRT-1 Position Standard (the higher level position), the coordination of "all cooperative rearing pond operations in a district" is listed (Respondent Exhibit #2). In order for the position to be reclassified, normally the majority of its duties and responsibilities must be at the higher level (Bender v. DOA & DP, 80-210-PC). Again, this test would not be met in the instant case. As late as the date of the 1982 position description, the appellant's duties and responsibilities for coordinating co-op rearing pond operations is 10%.

Testimony in this case was limited to information available to the Respondent department up to January of 1982, the date of the denial of the reclassification (Appellant's Exhibit #7). This included the assignment of the appellant to the co-op rearing program, but did not include the April, 1982, position description designation of Assistant Hatchery Foreman. Likewise the Commission's consideration of this appeal is limited to events prior to January, 1982. There was, however, an assertion by the respondent that, given the duties and responsibilities of the appellant as of June of 1982, the appellant may well be performing at the NRT-1 level. These June 1982 duties include the Assistant Hatchery Foreman designation. An effect of the Respondent's withdrawal of its prior objection to the introduction of the 1982 position description (at the close of the hearing), could be that this designation can be considered in reviewing the appellant's reclass appeal to the Commission. The record before the Commission, upon such consideration, does not lead to the conclusion that the Assistant Hatchery Foreman designation would meet the "logical and gradual change" test.

The respondent further asserted that if the position currently occupied by the appellant is at the NRT-1 level, the appropriate way for the appellant to properly obtain the position and the associated NRT-1 level is through the competitive process required by the civil service rules because the position does not meet the "logical and gradual" requirement.

The Commission urges the respondent department to review the position as it now exists and the current position description of the appellant. If it is the department's determination that the position is at the NRT-1 level and competition is required to permanently fill it, the department should institute that process.

ORDER

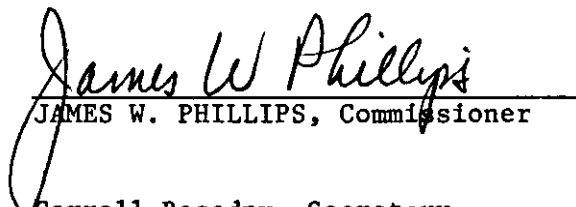
The respondents' decision dated January 19, 1982, denying appellant's reclassification request is affirmed and this appeal is dismissed.

Dated: February 9, 1983 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson

JWP:jmf


LAURIE R. McCALLUM, Commissioner


JAMES W. PHILLIPS, Commissioner

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