

STATE OF WISCONSIN

PERSONNEL COMMISSION

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ORVILLE A. FROH, and *
MICHAEL LACH *
*
Appellants, *
*
v. *
*
Secretary, DEPARTMENT OF *
EMPLOYMENT RELATIONS, *
*
Respondent. *
*
Case Nos. 84-0130,0136-PC *
*
* * * * *

DECISION
AND
ORDER

NATURE OF THE CASE

These are appeals pursuant to §230.44(1)(b), Stats., of the reallocation of appellant's positions from Regulation Compliance Investigation Supervisor 1 (PRO1-13) to Regulation Compliance Investigation Supervisor 1 (PRO1-13), following a survey and the development of new position standards. These appeals were heard on a consolidated basis pursuant to mutual agreement.

FINDINGS OF FACT

1. At all relevant times the appellants have been employed in the classified civil service in the Department of Transportation, Division of Motor Vehicles, Bureau of Vehicle Regulation and Licensing, Dealer License Section, Dealer Inspection Unit, as Investigator Supervisors.

2. The duties and responsibilities of the appellants' positions as of the date of the reallocations here appealed are as set forth in the position descriptions marked as Appellants' Exhibits 9 and 11. These duties and responsibilities are summarized as follows in said exhibits:

Under general direction of the unit supervisor, supervise, coordinate and direct consumer protection and dealer inspection activities of 6 investigators in the Dealer Inspection Unit, Division of Motor Vehicles, in a multi-county area ranging in size from 17 counties to 55 depending on population density.... Position requires coordinating these activities with headquarter's objectives, administering personnel matters and supervising the inspection and investigation of motor vehicle and mobile home dealers, auto pools and salvage dealers to ensure compliance with applicable statutes and codes. Position also requires supervising complaint processing involving detailed investigations, dispute settlements and public information activities.

Coordinate efforts when involved in joint investigations with local police departments and FBI.

3. As a result of the Regulation and Compliance survey, the appellants' positions were reallocated from Regulation Compliance Investigation Supervisor 1 (PR01-13) to Regulation Compliance Investigation Supervisor 1 (RCIS 1) (PR01-13), effective June 10, 1984.

4. The RCIS position standard, Respondent's Exhibit 1, contains the following "Class Concepts and Representative Positions" for RCIS 1 and RCIS 2:

REGULATION COMPLIANCE INVESTIGATION SUPERVISOR 1 (PR 1-13)

This is supervisory work in a regulation compliance investigation program. Employees in this class typically supervise a staff of Regulation Compliance Investigators and are involved in operational planning and program evaluation activities. Work is performed under the general supervision of a higher level program supervisor.

Representative Position:

Under the general direction of a unit supervisor, supervise a regional staff of investigators in the Motor Vehicle Dealer Investigation program. Duties also include directing the most complex investigations, counseling dealers and complainants, interpreting laws and rules, training staff, and assisting unit supervisor in development of statewide operating plans.

REGULATION COMPLIANCE INVESTIGATION SUPERVISOR 2

(PR 1-14)

This is supervisory work in a regulation compliance investigation program. Employees in this class typically supervise a staff of Regulation Compliance Investigators and are involved in program management activities. Work is performed under the general supervision of higher level program supervisors.

Representative Positions:

Under general direction, supervises a staff of Consumer Specialists and Regulation Compliance Investigators in a regional consumer protection office in the Department of Agriculture, Trade and Consumer Protection. In addition, employe also directs the regional weights and measures program of the department, supervising several Weights and Measures Inspectors.

Under the direction of an Assistant Attorney General, organizes and manages the Department of Justice's statewide consumer protection program. Supervises and trains a staff of Regulation Compliance investigators, as well as conducts the most complex investigations.

5. The appellants' positions are better described by the RCIS 1 rather than the RCIS 2 section of the position standard.

6. The factor evaluation system point score for the appellants' positions are within the range for the RCIS 1 level.

7. The appellants' positions have not been shown to compare favorably, from a classification standpoint, with the RCIS 2 positions in the Department of Agriculture, Trade and Consumer Protection (DATCP) identified by the position descriptions marked Appellant's Exhibits 7 & 8, in part because these positions are responsible for two separate programs, consumer protection and weights and measures.

8. The appellants' positions are more appropriately classified as RCIS 1 than RCIS 2.

CONCLUSIONS OF LAW

1. These matters are properly before the Commission pursuant to §230.44(1)(b), Stats.

2. The appellants have the burden of proving that the respondent erred in reallocating their positions to RCIS 1 (PR01-13).

3. The appellants have not sustained their burden of proof.

4. The respondent's reallocation of the appellants' positions to RCIS 1 (PR01-13) was not incorrect.

OPINION

The appellants have attempted to compare their positions to two positions in the Department of Agriculture, Trade and Consumer Protection (DOATCP) occupied by Ms. Suschil and Ms. Quaid, which were reallocated to RCIS 2 in the implementation of the survey. However, this comparison did not aid the appellants' cause.

The DOATCP positions are responsible for two programs -- consumer protection and weights and measures. Mr. Dean, the appellants' current supervisor who previously had worked in DOATCP, offered the opinion that the jobs were comparable. However, he qualified this opinion by pointing out that his evaluation of the DOATCP jobs was based on his exposure to those jobs before they acquired the weights and measures responsibilities. There simply is insufficient evidence on this record to support a conclusion that these positions are comparable from a classification standpoint.

The appellants also presented evidence that each of them, Mr. Dean, and Donald Krohn, Chief of the Dealer Section, had evaluated their positions using the factor evaluation system and this resulted in point scores within higher level ranges.

However, none of these individuals had any training in such evaluations. Mr. Dean even testified that he felt his evaluation was very subjective, and that he had little, if any, confidence in the accuracy of the results. On the other hand, two personnel specialists from DER and one

from DOT evaluated the positions and reached point scores in the RCIS 1 range. There is nothing in this record that would enable the Commission to conclude that the appellants' positions should be scored at the RCIS 2 level.

The appellants' position description listed the "Physical Demands" of their positions as "N/A" and the "Work Environment" as:

Average 12,000 miles annual travel requiring normal highway travel safety precautions.

When inspecting vehicles in garages or salvage yards, safety glasses are required and hoist safety regulations must be adhered to. P. 7, Appellants' Exhibits 9 & 11.

In the factor evaluation performed by the personnel specialists, the positions were evaluated for "physical Effort" at the PE 1 level (5 points). This level is described in the "Master Guidechart", Appellants' Exhibit 6, as follows:

Inspections, investigations, and patrol duties conducted at this level normally involve the following types of physical activities:

- a) driving to and from the inspection and investigation site;
- b) walking and standing in and around the work site;
- c) lifting items such as books, ledgers or tools which may weigh up to ten pounds.

With respect to "Work Environment," they also evaluated the positions at the lowest level (5 points), which is described in the "Master Guidechart" as follows:

The work environment normally involves everyday risks or discomforts which require normal safety precautions typical of conducting inspections or investigations in an office, commercial establishment, etc. These precautions include using safe work practices with office equipment, avoidance of trips and falls, observance of fire safety regulations, etc. The work area is adequately lighted, heated, and ventilated. Extensive travel to and from the work site requires the exercise of normal highway safety precautions.

At the hearing, the appellants indicated, in essence, that the "Physical Demands" and "Work Environment" aspects of their positions were understated on their position descriptions. Testimony was provided that

they were subject to extensive stress due to contacts with frequently uncooperative or hostile dealers, and to safety hazards in salvage yards from dogs and rusty wrecked vehicles. They also have to work in sub-freezing weather.

In the Commission's view, the aforesaid evidence is not enough to place the appellants' positions at a higher level with respect to physical effort and work environment.

The appellants' testimony was that they go into the field with their investigators about weekly. This indicates that, as supervisors, they primarily operate in an office environment and their work in the salvage yard environment is a limited part of their jobs.

Furthermore, the stress aspect is covered in effect in the Master Guidechart under "personal contacts." Contacts with the dealers would have to be "regular and frequent" to move the rating of the appellants' positions to a higher level, and on this record it cannot be said that such is the case.

Finally, it is undisputed that the appellants' positions are specifically identified by the RCIS position standard, Appellants' Exhibit 4, as a representative position:

Under the general direction of a unit supervisor, supervise a regional staff of investigators in the Motor Vehicle Dealer investigation program. Duties also include directing the most complex investigations, counseling dealers and complainants, interpreting laws and rules, training staff, and assisting unit supervisor in development of statewide operating plans. p.3, Appellants' Exhibit 4.

This representative position clearly describes the appellants' positions.

Since the appellants have failed to show that their positions are comparable to the RCIS 2 positions in DOATCP, or that their factor evaluation point scores are more reliable than those performed by the respondents' agents, and the RCIS position standard explicitly identifies their

positions as representative positions at the RCIS 1 level, the Commission has little choice but to conclude that the appellants' positions were properly reallocated to RCIS 1.

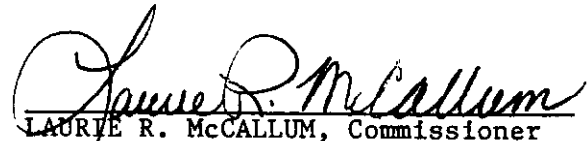
ORDER

The respondent's action is affirmed and this appeal is dismissed.

Dated: Feb 13, 1985 STATE PERSONNEL COMMISSION


DONALD R. MURPHY, Chairperson

AJT:jmf
ID4/2


LAURIE R. McCALLUM, Commissioner


DENNIS P. MCGILLIGAN, Commissioner

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