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Personnel  
Commission

COURT OF APPEALS  
DECISION  
FILED  
JAN 23 1987  
CLERK OF COURT OF APPEALS  
OF WISCONSIN

No. 86-1483

STATE OF WISCONSIN IN COURT OF APPEALS  
DISTRICT IV

FILED

WISCONSIN DEPARTMENT OF  
EMPLOYMENT RELATIONS,

JAN 23 1987

Plaintiff-Respondent,

CLERK OF COURT OF APPEALS  
OF WISCONSIN

v.

WISCONSIN PERSONNEL  
COMMISSION,

Defendant-Appellant.

APPEAL from an order of the circuit court for Dane  
county: HOWARD LATTON, Reserve Judge. Reversed.

Before Gartzke, P.J., Dykman and Eich, JJ.

PER CURIAM. The Wisconsin Personnel Commission  
appeals from an order reversing its decision reallocating  
forty-one former Motor Vehicle Inspectors to State Patrol  
Inspector 2 positions.<sup>1</sup> Because the Commission's decision  
rested on a rational basis, we reverse the trial court.

The Department of Employment Relations (DER)  
implemented a survey of law enforcement positions, which  
resulted in the creation of the State Patrol Inspector 1 and  
2 (SPI 1 and 2) positions. Several Motor Vehicle Inspector

I's were notified that their positions would be reallocated to SPI 2. The Department of Transportation, on behalf of the employees, appealed the reallocation to the Commission under sec. 230.44(1)(b), Stats.

In reversing the reallocation decision, the Commission relied on the position standard for the SPI series which provides that an SPI 2 must have knowledge and skill to perform lead work and investigations upon appointment. The position standard only mentioned investigatory responsibilities as a duty of the SPI 2 position. Although the MVI Is had the knowledge and skill to perform certain types of investigations, the Commission found that they lacked knowledge and skill to perform all the types of investigations listed in the SPI 2 position description.

The trial court reversed. It concluded that SPI 1s and 2s performed the same type of investigations. The only difference was that SPI 2s devoted slightly more time to this task. The court further concluded that because the SPI 1 is an entry level position requiring close supervision, and the MVI Is had from two to eighteen years of

experience, they should have been reallocated to the SPI 2 position.

The secretary of DER establishes the classification series for the classified service. Secs. 230.09(1), (2)(am) and (b), Stats. The secretary may reallocate an existing position to the appropriate class based on its duties, authority, responsibilities or other factors recognized in the job evaluation process. Sec. 230.09(2)(a). Class specifications define the nature and character of the work of the class and constitute the basic authority for assigning positions to a class. Wis. Adm. Code., sec. ER-Pers 2.04(1), (2).

The SPI 1 and 2 position standard states that it is the basic authority for classification decisions. It provides in relevant part:

I. B. Inclusions

This series encompasses positions performing technical work in the enforcement of State motor carrier laws and regulations. Duties include patrolling highways and operating State truck weighing stations for the purpose of detecting violations of motor carrier laws, inspecting school buses, trucks, and other motor vehicles for compliance with motor vehicle safety equipment laws and regulations, making arrests for

violations of motor carrier laws and regulations, investigating to locate persons not responding to bad check payment inquiries, confiscating driver licenses and plates, identifying vehicles through locating confidential vehicle identification numbers, and investigating the facilities and operations of motor vehicle and salvage dealers.

I. D. Entrance and Progression  
Through This Series

Employees typically enter this series by competitive examination for Enforcement Cadet, and after successful completion of a training program at the State Patrol Academy, are certified to positions at the State Patrol Inspector 1 level. Employees advance to the State Patrol Inspector 2 level through reclassification. Employees at the 2 level assume lead work and investigatory responsibilities.

II. CLASS CONCEPTS AND REPRESENTATIVE  
POSITIONS

STATE PATROL INSPECTOR 1

This is entry level motor carrier law and regulation enforcement work under the close supervision of a State Patrol Inspector Supervisor or State Patrol Sergeant. Positions operate State fixed scale or portable scale units for the purpose of detecting violations of motor carrier laws and regulations and inspect school buses, trucks, and other motor vehicles and operators for maintenance and compliance with safety equipment regulations.

STATE PATROL INSPECTOR 2

This is objective level motor carrier law and regulation enforcement work under the general supervision of a State Patrol Inspector Supervisor or State Patrol Sergeant. Positions operate State fixed scale or portable scale units for the purpose of detecting violations of motor carrier laws and regulations and inspect school buses, trucks, and other motor vehicles and operators for maintenance and compliance with safety equipment regulations. Positions may also train lower level inspectors.

Position standards are comparable to administrative standards. Their application to a position is analogous to the application of a legal standard to a set of facts, which raises a question of law. Nottelson v. ILHR Department, 94 Wis.2d 106, 115-16, 287 N.W.2d 763, 768 (1980). Since the Commission is statutorily responsible for reviewing reallocations under sec. 230.45(1)(a), Stats., we sustain its decision if a rational basis for it exists. Arrowhead United Teachers v. ERC, 116 Wis.2d 580, 593-94, 342 N.W.2d 709, 716 (1984).

While neither the SPI 1 or 2 "class concepts and representative positions" includes investigations as a job duty, section I.D. distinguishes between SPI 1s and 2s in that 2s assume lead work and perform investigations. The

qualifications section requires that the necessary knowledge and skill be obtained upon appointment. Section I.B. includes as duties of the series investigations "to locate persons not responding to bad check payment inquiries, confiscating driver licenses and plates, identifying vehicles through locating confidential vehicle identification numbers, and investigating the facilities and operations of motor vehicle and salvage dealers." Since section I.D. distinguishes SPI 2s from 1s by their performance of investigations, it is reasonable to conclude, as did the Commission, that the investigations listed in section I.B. are the investigations which SPI 2s perform.

Comparing the MVI I position description to the SPI 1 and 2 position standards as construed above, we conclude that the Commission had a rational basis for its decision. MVI 1s only investigate complaints involving school buses, trucking and school bus violations, and in response to information requested on previously written motor carrier inspection reports. They do not possess the training and experience necessary to perform all the investigations required of the SPI 2 classification upon appointment.

By the Court.--Order reversed.

Publication in the official reports is not recommended.

APPENDIX

<sup>1</sup>This appeal is decided pursuant to the court's expedited appeals procedure.