

STATE OF WISCONSIN

PERSONNEL COMMISSION

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MARK E. BRANDT,

Appellant,

v.

Secretary, DEPARTMENT OF
NATURAL RESOURCES, and
Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondents.

Case No. 87-0155-PC

* * * * *

DECISION
AND
ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b), Stats., of the denial of a request for reclassification of appellant's position from Park Superintendent 2 (PS 2) (Pay Range 1-11) to Park Superintendent 3 (PS 3) (Pay Range 1-12).

FINDINGS OF FACT

1. Appellant has at all relevant times been employed by respondent Department of Natural Resources (DNR), and is currently employed at the Northern Highland - American Legion (NH-AL) State Forest at Woodruff in a position with the working title of Law Enforcement Supervisor.

2. The current duties and responsibilities of appellant's position are accurately set forth in the position description signed by him on May 20, 1986, Respondent's Exhibit 3. The "position summary" is set forth on that document as follows:

POSITION SUMMARY

The Park Supervisor 2-L.E. is responsible for planning, organizing, directing, controlling, evaluating, and supervising all law enforcement activities within Northern Highland-American Legion State Forest. This work is carried out by three permanent patrolmen, five LTE patrolmen (summer), and two interns (summer). During summer holidays six to eight additional Law Enforcement personnel are used. This position coordinates three patrolmen's work assignments to insure Forest goals are met. This position has full arrest powers and reports to the Forest Recreation Specialist. Additional duties include direction of public contact employees, registering campers, selling stickers, and responsibility for monies collected. Other additional duties include law enforcement cooperation with wardens in the Woodruff area and occasional assignments in other areas of the state.

Note: The Northern Highland-American Legion State Forest consists of 210,000 acres, 2 group campgrounds, 13 wilderness campsites, 118 canoe campsites, 37 miles hiking trails, 60 miles cross country skill trails, and 70 miles of state snowmobile trails. The Forest is the busiest recreation facility in the state, with 1,500,000+ visitors a year and 250,000+ campers. In addition, the Forest has 70-90 active logging contracts producing 40,000 cords of pulpwood and 1.5 million board feet of sawlogs a year. There are 2,000+ firewood permits issued annually. The Forest is the largest state-owned forest product producing facility.

3. Appellant supervises 3 permanent Ranger 3's and 10 LTE's, interns, and temporarily-assigned DNR employes.

4. Based on the official NH-AL Organization chart, which reflects the official DNR - prescribed organization for NH-AL, appellant is supervised by Dennis Leith, the Recreation Specialist and a PS 4, and Mr. Leith is supervised by Floyd Reinemann, the Forest Superintendent, NRS 4 (PR1-15). Mr. Reinemann is supervised by the Woodruff Area Director, Pete Tyler. In some enforcement matters, appellant operates in a direct coordinative capacity with a warden or area warden. With respect to a minority of his activities, appellant reports directly to the district director, assistant district director, or area director. Mr. Leith does appellant's performance evaluations and leave administration and signs his position descriptions.

5. Appellant's position was reallocated from PS 1 (Pay Range 1-10) to PS 2 (Pay Range 1-11) effective April 14, 1985, following a survey. Subsequent to that reallocation, Sue Steinmetz, DNR Personnel, met with Mr. Leith and Mr. Eldred on May 30, 1985. It was agreed that it was a bad time to submit a reclassification request (as to the Leith, Eldred and Brandt positions) because it was too close to the survey. Ms. Steinmetz suggested they wait about 6 months and then resubmit their reclassification requests, and she advised them that their requests would be evaluated by comparison of their latest PD's with their 1984 PD's, not their 1985 PD's which had recently been submitted. She did not state or indicate that these forthcoming reclassification requests would be granted.

6. Over the period of about 4 years prior to the 1987 reclassification denial, appellant's position has experienced a logical and gradual change, in summary as follows:

- a) Assumption of enforcement responsibilities for the Bearskin State Park Trail, an extensive snowmobile facility;
- b) Added workload in connection with Native American Treaty Rights developments;
- c) Increased workload in connection with the Youth Conservation Camp (YCC) at Manitowish Waters, as the use of the YCC as a sentencing alternative by some judges has resulted in more problem youths at the YCC, thus requiring more enforcement activity;
- d) Increased timber sale contract violations;
- e) Increased safety inspection of forest facilities from camp grounds and picnic areas to canoe sites, wilderness sites, islands and snowmobile trails;
- f) Increased number of citations from 75 to 400 per year.

7. DNR has developed various quantitative criteria (e.g., acreage, number of visitors, campsites, etc.) to evaluate its properties from a classification standpoint. State parks are rated from Class A (smallest) to Class E (largest). State forests are rated medium, large, or major. DNR has categorized NH-AL State Forest as the only major forest and considers it to be on an equivalent level to a Class E park.

8. The NH-AL State Forest is more extensive in scope than any state park as evaluated by various quantitative criteria, such as:

a) NH-AL has in excess of 500 miles of snowmobile trails, which is more than the rest of the state combined;

b) NH-AL includes over 300,000 acres (of which DNR owns about 220,000); the total acreage for all state parks and the southern forests is about 290,000;

c) NH-AL has the third highest revenues of state properties despite having the lowest relative fees;

d) NH-AL has the largest timber revenue of any state property. It averages 15,000 acres per year of timber sales. Some parks have a 15-20 acre sale every 10-12 years. Appellant is responsible for law enforcement with regard to contract violations, timber thefts, etc.

(e) NH-AL has more boat landings than all other properties put together;

f) NH-AL has more islands than all the other properties put together;

(g) NH-AL has 300-500 arrests per year, including major violations, while, for example, the Lake Wissota work unit has about 2 or 3 arrests annually, and Wyalusing has 4 or 5, all of which are for minor violations.

10. The PS position standard, Respondent's Exhibit 2, includes the following:

A. Purpose and Use of This Position Standard

This position standard is the basic authority for making classification decisions relative to present and future positions implementing the programs and managing the property of state parks and/or forests in accordance with the rules and regulations of the Department of Natural Resources (DNR). This position standard will not specifically identify every eventuality or combination of duties and responsibilities of positions that currently exist, or those that may result from future changes. Rather, it is designed to serve as a framework for classification decision making in this occupational area.

B. Inclusions

This series encompasses superintendent and assistant superintendent positions which manage property and implement DNR programs in state parks and/or forests. Duties may include planning, coordinating and implementing grounds maintenance; building maintenance; equipment maintenance; park development; law enforcement; recreation programs; and training. Certain duties of these positions may be identified in other classifications, but they would not comprise a majority of these positions' work time.

* * *

E. Classification Factors

The following classification factors were considered during development of the Position Standard:

Factor 1 - Scope and Impact of Work:

- a. Scope (range or extent) of the goals and accomplishments; and
- b. Impact of the work both internal and external to the work unit.

Factor 2 - Complexity of Work:

- a. Difficulty in deciding what needs to be done; and
- b. Difficulty in performing the work.

Factor 3 - Discretion and Accountability:

- a. Extent to which the work is structured or defined; and

- b. Extent to which one is responsible to other authorities for actions taken or decisions made.

Factor 4 - Knowledge and Skills Required:

Breadth (variety) of knowledge normally required and used in completing acceptable work, and depth (degree of detailed understanding) of knowledge normally required and used in completing acceptable work.

Factor 5 - Personal Contacts and Their Purpose:

- a. Nature of the contacts; and
- b. Purpose of the contacts.

Factor 6 - Work Environment:

Level and frequency of risks and discomforts in employes' normal physical surroundings.

Factor 7 - Physical Effort:

Level and frequency of physical effort required of employes by normal work assignments.

F. How to Use This Position Standard

This standard is used to classify entry, developmental and objective level positions described under Section B of this standard. In most instances, positions included in this series will be clearly identified by one of the class descriptions. However, if a position develops which is not specifically identified, classification analysis will be necessary to determine the proper classification and level.

II. CLASS CONCEPTS AND REPRESENTATIVE POSITIONS

PARK SUPERINTENDENT 2

(PR1-11)

This is developmental or objective level park superintendent work performed under the limited/general supervision of a higher level Park Superintendent. Positions at the objective level typically function as: 1) the Superintendent of a Class A park; 2) the Assistant Superintendent of a Class C park; 3) as the maintenance or public contact supervisor of a Class D park; or 4) the law enforcement and public contact or maintenance and development supervisor of a Class E park which has an Assistant Superintendent.

Representative Positions:

Public Contact Supervisor, Peninsula State Park - This position is responsible for all public contact functions including law

enforcement, sticker sales, camper registration, campsite reservation, and water safety under the direction of the Assistant Park Superintendent.

Assistant Superintendent, Pike Lake State Park - This position serves as assistant park superintendent and is responsible for developing work plans, law enforcement, and development projects. Administers park operations in absence of Park Superintendent.

PARK SUPERINTENDENT 3

(PR 1-12)

This is developmental or objective level park superintendent work performed under the limited/general supervision of a higher level Park Superintendent or an Area Director. Objective level positions typically function as: 1) the Superintendent of a Class B park; 2) Assistant Superintendent of a Class D Park; or 3) supervisor of the law enforcement and public contact or maintenance and development of a Class E park reporting directly to the Park Superintendent.

Representative Position:

Law Enforcement and Public Contact Supervisor, Devil's Lake - This position is responsible for planning, organizing and supervising all law enforcement and public contact activities at Devil's Lake State Park, and reports directly to the Park Superintendent.

10. Appellant's position is more accurately described by the PS 2 than by the PS 3 position standard, and is more appropriately classified as PS 2 than as PS 3.

11. By memo dated July 13, 1987, Respondent's Exhibit 3, respondent DNR denied reclassification of appellant's position to a higher level. Appellant then filed this appeal.

CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to §230.44(1)(b), Stats.
2. Appellant has the burden of proving that respondent's decision to deny reclassification of his position from PS 2 to PS 3 was incorrect.
3. Appellant having failed to sustain his burden of proof, it must be concluded that respondent's decision to deny reclassification of his position from PS 2 to PS 3 was not incorrect.

DISCUSSION

The Commission will first address appellant's contention that respondent's decision concerning the classification of his position was defective because the position standard was developed for state park positions and does not adequately cover state forest positions. The language of the position standard clearly states it was intended to be used for both forest and park positions. The categorization of properties by workload occurred with respect to both park and forest properties, and NH-AL was classified as the only major (largest) forest and equated to a Class E park, the largest park category. While appellant contends that NH-AL should be awarded an F or G rating, the position standard does not recognize such a rating, so to do so would be to rewrite the position standard at the PS 3 level to read as follows: " ... law enforcement... supervisor... of a Class F or G park which has an Assistant Superintendent." The Commission does not have the authority to rewrite a position standard, but must apply the existing standard to the duties and responsibilities of a position to determine the correctness of the decision it is reviewing. Zhe v. DHSS & DP, No. 80-285-PC (11/19/81), affirmed, Dane Co. Circuit Court No. 81CV6492 (11/82).

There are cases where parts of a position standard become outmoded over the course of time and as circumstances change, and then classification decisions may be based on the more general concepts reflected in the position standard, as opposed to outmoded specific sections, such as allocation patterns. This is specifically recognized by the PS position standard, which states:

"A ... This position standard will not specifically identify every eventuality or combination of duties and responsibilities of positions that currently exist, or those that may result from future

changes. Rather, it is designed to serve as a framework for classification decision making in this occupational area.

* * *

F. In most instances, positions included in this series will be clearly identified by one of the class descriptions. However, if a position develops which is not specifically identified, classification analysis will be necessary to determine the proper classification and level." (emphasis added)

However, in this case, the position standard was implemented in 1985.

Appellant's disagreement with capping the property ratings at Class E (to which NH-AL, a major forest, has been equated) is a disagreement with a concept embodied in the position standard, and is not based on a theory that NH-AL went from a Class E to what should be recognized as a Class F or G property between 1985 and 1987, when this reclassification decision was made.

Appellant's position is clearly identified by the PS 2 definition in the position standard as follows:

... 4) The law enforcement and public contact or maintenance and development supervisor of a Class E park which has an Assistant Superintendent.

At the PS 3 level, this type of position is identified as follows:

... 3) supervisor of the law enforcement and public contact or maintenance and development of a Class E park reporting directly to the Park Superintendent.

Thus, to be at the PS 3 level, appellant would have to be supervised by the Park Superintendent, rather than by Mr. Leith, the Assistant Park Superintendent. This is not the case, although appellant does report directly to other supervisors with regard to certain limited aspects of his job.

Appellant contends that his enforcement duties and responsibilities are far more complex and extensive than the Park Superintendent positions located in the parks. However, the position standard bases the classification of these park positions not solely on the complexity and extent of

their enforcement activities, but also on their other activities and/or their reporting relationship, which runs to the Classification Factor of Discretion and Accountability.

In conclusion, while appellant's position has experienced some growth, the position is still within the parameters of the PS 2 classification as the law enforcement supervisor of a Class E or equivalent property which has an Assistant Superintendent. It is possible that such a position could grow enough, particularly through the addition of programs, to reach the point where it could be concluded that it had outstripped the concept of a law enforcement supervisor of a Class E or equivalent property which has an Assistant Superintendent embodied in the position standard, and should be placed at a higher level based on this language from the position standard:

"A ... This position standard will not specifically identify every eventuality or combination of duties and responsibilities of positions that currently exist, or those that may result from future changes. Rather, it is designed to serve as a framework for classification decision making in this occupational area.

* * *

F ... if a position develops which is not specifically identified, classification analysis will be necessary to determine the proper classification and level.

However, the growth experienced in appellant's position is an outgrowth or an adjunct of his basic enforcement activities. With regard to increased workload, under this classification structure it has little significance except to the extent it were of a nature that it could move a property into a different category type, and NH-AL is already at the highest level. Therefore, it must be concluded that the changes in this position have not moved it outside its identification by the position standard at the PS 2 level.

It appears that appellant's classification concerns, particularly as they relate to his contentions concerning the uniqueness of the NH-AL State

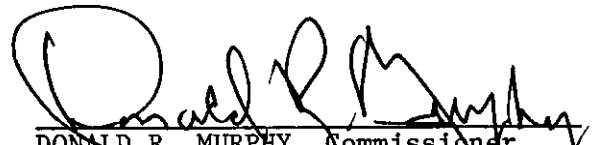
Forest, could best be addressed through a revision in the position standard. While it cannot be said whether such a change would be justified, the Personnel Commission lacks the authority to make such a revision.¹


ORDER

Respondents' action denying the request for reclassification of PS 2 to PS 3 is sustained and this appeal is dismissed.

Dated: November 3, 1988 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

AJT:jmf
JMF11/2

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¹The Commission has revised the last sentence of the proposed decision and order by deleting language that was not necessary to rendering a decision in this matter.