

STATE OF WISCONSIN

PERSONNEL COMMISSION

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GENEVIEVE STRATIL, \*

Appellant, \*

v. \*

Secretary, DEPARTMENT OF \*

INDUSTRY, LABOR AND HUMAN \*

RELATIONS, and Secretary, \*

DEPARTMENT OF EMPLOYMENT \*

RELATIONS, \*

Respondents. \*

Case No. 87-0210-PC \*

\* \* \* \* \*

INTERIM  
DECISION  
AND  
ORDER

This matter is before the Commission on a dispute regarding the issue for hearing. The appeal arises from a reclassification decision.

A prehearing conference was held on January 20, 1988 and the parties agreed to the following main issue for hearing:

Whether respondents' decision denying reclassification of appellant's position from Job Service Specialist 2 to Job Service Specialist 3 was correct.

In addition, respondent proposed the following subissue:

If the appellant establishes that the position is better classified at the Job Service Specialist 3 level, is it more appropriate to regrade the incumbent or open the position to competition.

The appellant objects to proposed subissue, and argues:

This sub-issue is dangerous from several perspectives. First and foremost, it puts an employee that disagrees with the employer's decision on classification in the untenable position of having to prove, in litigation, that the employer is wrong and in so doing jeopardizes their own job. If they prove the job classification is improper, the employer would have the option of opening that position to competition with the possibility of someone else coming in and forcing the employee, at the very least, to relocate if they want to remain employed. This flies in the face of all rules of the employer being arbitrary and capricious. If the employer, in their wisdom, places an employee in a position and either directs or allows an

employee to perform at a certain level, then the employer is to compensate that employee according to pre-established guidelines for that level of performance and responsibility.

Relevant statutes and administrative rules draw a clear distinction between reclassifying a position and regrading an incumbent of a position. The statutory authority granted to the secretary of the Department of Employment Relation reflects this distinction in s. 230.09(2), Stats.:

(a) After consultation with the appointing authorities, the secretary shall allocate each position in the classified service to an appropriate class.... The secretary may reclassify or reallocate positions on the same basis.

\* \* \*

(d) If after review of a filled position, the secretary reclassifies or reallocates the position, the secretary shall determine whether the incumbent shall be regraded or whether the position shall be opened to other applicants. (Emphasis added)

Definitions of "reclassification" and "regrade" are found in s. ER - Pers 3.01, Wis. Adm. Code:

(3) RECLASSIFICATION. Reclassification means the assignment of a filled position to a different class by the administrator as provided in s. 230.09(2), Stats., based upon a logical and gradual change to the duties or responsibilities of a position or the attainment of specified education or experience by the incumbent.

(4) REGRADE. A regrade means the determination of the administrator under s. 230.09(2)(d), Stats., that the incumbent of a filled position which has been reallocated or reclassified should remain in the position without opening the position to other candidates.

The file in the instant appeal does not include a copy of the appellant's "reclassification" request, so there is no evidence that shows conclusively whether appellant's request was solely to reclassify a position or whether the request could be read to include both reclassification of the position and regrading herself as the incumbent. However, the written denial of appellant's request did address the issue of regrade as well as the reclassification issue:

The audit of your position by Ms. Jagers also substantiated that the duties and responsibilities that you were responsible for were placement specialist activities and appropriately classified at the Job Service Specialist 2 level.

The Entrance and Progression Through the Series portion of the Job Service Specialist position standards created by the survey in 1986 states:

"Entrance into this series will typically be by competitive examination. Progression through this series will occur through reclassification from the entry level Job Service Specialist 1 to the objective level Job Service Specialist 2. Progression beyond the objective level Job Service Specialist 2 (Placement Specialist) will occur through a competitive examination for advanced level positions such as the Account Executive, Job Club Specialist, or Special Program Representative." emphasis added.

If your duties and responsibilities change to the point that the emphasis of your position represents advanced activities as identified in the position standards, such as providing comprehensive community-wide labor exchange services, then the position would be appropriately classified as a Job Service Specialist 3. However, as identified above, the correct personnel transaction would be competition. (Emphasis in original)

In addition, appellant's letter of appeal stated that she wished to appeal the "decision not to reclassify me to a Job Service Specialist 3." (Emphasis added)

The Commission recognizes that employes may use the term "reclassification" loosely in a way that includes the legal definitions of both "reclassification" and "regrade." In the present case, the record indicates that the appellant requested reclassification for her position and regrade for herself. Therefore, the regrade issue is an appropriate part of the issue for hearing in this matter.

An opposite conclusion in this case would mean that the remedy in the event of a ruling in favor of the appellant would be simply to direct the respondent to reclassify the position. Respondent would then still have to make a decision as to regrading the incumbent. If that decision was

adverse to the incumbent, a new appeal could be filed under s. 230.44(1)(b), Stats., but, pursuant to s. 230.44(4)(d), Stats., the Commission could not delay the appointment process unless there was a showing of obstruction or falsification.

ORDER

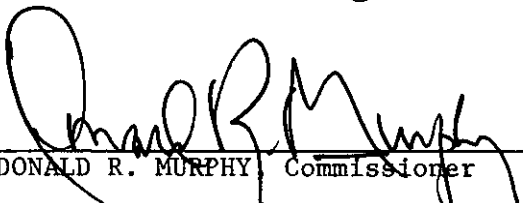
The issue for hearing in this matter shall read as follows:

Whether respondents' decision denying reclassification of appellant's position from Job Service Specialist 2 to Job Service Specialist 3 was correct.

Subissue: If the appellant establishes that the position is better classified at the Job Service Specialist 3 level, is it more appropriate to regrade the incumbent or open the position to competition.

Dated: February 24, 1988 STATE PERSONNEL COMMISSION

  
DENNIS P. MCGILLIGAN, Chairperson

  
DONALD R. MURPHY, Commissioner

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