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NAJIM A. HEIDARI,  
                   Appellant,

v.

Secretary, DEPARTMENT OF  
 EMPLOYMENT RELATIONS,

                  Respondent.

Case No.      92-0029-PC

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DECISION  
 AND  
 ORDER

NATURE OF THE CASE

This is an appeal pursuant to §230.44(1)(b), Stats., of the reallocation of appellant's position to Civil Engineer - Transportation - Journey rather than Civil Engineer - Transportation - Senior.

FINDINGS OF FACT

1. At all times relevant to this appeal, appellant has been employed in the classified civil service in the Department of Transportation (DOT), District 2 - Waukesha.
2. As a result of the engineering survey conducted by respondent, appellant's position was reallocated to Civil Engineer Transportation - Journey. Appellant pursued an informal appeal of this transaction, which respondent eventually denied. Appellant then filed a formal appeal with this Commission.
3. The Civil Engineer - Transportation series class specification (Respondent's Exhibit 1) provides that journey level positions in construction: "coordinate all project activities required in the accomplishment of medium to large roadway construction projects or assist in the coordination of all project activities required in the accomplishment of more complex roadway construction projects." It further provides that journey level positions in design: "are leaders of one or more design squads ... for medium to large highway projects. The senior level definition includes this language: "the differentiating characteristics of the senior level include long-term and broadly defined objectives; major work products are completed with little or no specific direction or review; and the supervisor reviews the work after it is

completed for informational or evaluation purposes." Senior level positions in construction: "coordinate all project activities required in the accomplishment of large to reasonably complex roadway construction projects or assist in the coordination of all project activities required in the accomplishment of more complex roadway construction projects. Activities are similar to those listed under the Journey level for this type of position." Senior level positions in design:

[A]re leaders of one or more design squads for large to reasonably complex highway projects. The more complex project would have a high cost with over 200 contract items; may be an existing roadway or a new roadway; involve environmental issues; have substantial public involvement and be politically sensitive. Additionally, the more complex project would involve right-of-way issues. An engineer at this level may be assigned multiple large projects.

4. From August 1987 - December 1989, appellant was assigned to the construction section as an Assistant Project Engineer under the supervision of Project Engineer Len Makowski assigned to the Forest Home Avenue project. This project was approximately five miles in length, had six contractors, a full-time survey crew, a full-time plant inspector, paving and grading of more than one mile, over 100 contract items, and a cost of about \$1.5 million. This was a "large" project as defined by the class specification (Respondent's Exhibit 1), p. 11. Appellant was assigned to this project in part to acquire the skills necessary to learn how to function independently in this area the following year. His supervision by Mr. Makowski was consistent with that received by a journey level engineer, as his (appellant's) work was reviewed for correctness, and he did not function independently.

5. From December 1989 - March 1990, appellant was assigned to the Highway 50, New Munster bypass project, in the Design Section, as the Assistant Project Engineer to Project Engineer John Wickler. This project was approximately three miles in length, had approximately \$4.5 million in cost, and had about 150 contract items. This project was "reasonably complex" as defined by the class specification (Respondent's Exhibit 1), p. 11. Although appellant functioned with a good deal of independence, Mr. Wickler reviewed his work for correctness and completeness.

6. During the period March 1990 - August 1990, appellant was assigned to the Materials and Soils Section as a Soils Project Engineer under

the supervision of Louie Updike, District Soils Engineer. Appellant was given this assignment in part as a learning experience. Appellant's supervision by Mr. Updike was consistent with the journey level. Mr. Updike reviewed his reports for correctness and accuracy.

7. With respect to the three positions reallocated to the senior level to which appellant compared his position (incumbents Rivera-Dominguez, Ambrose, and Aleiow) all three were made senior because they were project engineers for projects that were large to reasonably complex.

8. Appellant was certified as a professional engineer (P.E.) in May 1988.

#### CONCLUSIONS OF LAW

1. This matter is properly before the Commission pursuant to §230.44(1)(b), Stats.
2. Appellant has the burden of proof.
3. Appellant has failed to sustain his burden.
4. Respondent's decision to reallocate appellant's position to Civil Engineer - Transportation - Journey instead of Civil Engineer - Transportation - Senior was not incorrect.

#### OPINION

The primary distinctions between the journey and the senior level is set forth in the senior definition in the class specification as follows: "the differentiating characteristics of the Senior level include long-term and broadly defined objectives; major work products are completed with little or no specific direction or review; and the supervisor reviews the work after it is completed for informational or evaluation purposes." Not even appellant's evidence supported that he worked at this level of independence. Mr. Wickler, who testified on behalf of appellant, was the project engineer for the Highway 50 project on which appellant was the assistant project engineer. While he offered the opinion that appellant was working at the senior level, he admitted on cross-examination that he reviewed appellant's work for correctness and completeness. Also, while he testified that this project was "complex," he also admitted on cross-examination that "it could be that his supervisor, David Molitor, would be in a better position to give an opinion as to the category of the size of the project," and Mr. Molitor characterized it as a large project.

Appellant's other two assignments during the period in question also involved review of his work for accuracy as opposed to for "informational or evaluation purposes" as called for at the senior level.


As to the other three positions to which appellant had compared his position, they were reallocated to the senior level based on responsibility as project engineers. (as opposed to assistant project engineers) for large to reasonably complex projects.

Finally, appellant's P.E. certification was not shown to have been particularly significant to this classification transaction, in the context of the material parts of the class specification.

ORDER

Respondent's decision to reallocate appellant's position to Civil Engineer - Transportation - Journey rather than to Civil Engineer - Transportation - Senior is affirmed and this appeal is dismissed.

Dated: March 19, 1993 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

AJT:rcr

  
DONALD R. MURPHY, Commissioner

  
GERALD F. HODDINOTT, Commissioner

Parties:

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Secretary, DER  
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NOTICE  
OF RIGHT OF PARTIES TO PETITION FOR REHEARING AND JUDICIAL REVIEW  
OF AN ADVERSE DECISION BY THE PERSONNEL COMMISSION

**Petition for Rehearing.** Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition with the Commission for rehearing. Unless the Commission's order was served personally, service occurred on the date of mailing as set forth in the attached affidavit of mailing. The petition for rehearing must specify the grounds for the relief sought and supporting authorities. Copies shall be served on all parties of record. See §227.49, Wis. Stats., for procedural details regarding petitions for rehearing.

**Petition for Judicial Review.** Any person aggrieved by a decision is entitled to judicial review thereof. The petition for judicial review must be filed in the appropriate circuit court as provided in §227.53(1)(a)3, Wis. Stats., and a copy of the petition must be served on the Commission pursuant to §227.53(1)(a)1, Wis. Stats. The petition must identify the Wisconsin Personnel Commission as respondent. The petition for judicial review must be served and filed within 30 days after the service of the commission's decision except that if a rehearing is requested, any party desiring judicial review must serve and file a petition for review within 30 days after the service of the Commission's order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. Unless the Commission's decision was served personally, service of the decision occurred on the date of mailing as set forth in the attached affidavit of mailing. Not later than 30 days after the petition has been filed in circuit court, the petitioner must also serve a copy of the petition on all parties who appeared in the proceeding before the Commission (who are identified immediately above as "parties") or upon the party's attorney of record. See §227.53, Wis. Stats., for procedural details regarding petitions for judicial review.

It is the responsibility of the petitioning party to arrange for the preparation of the necessary legal documents because neither the commission nor its staff may assist in such preparation.