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JOHN RANDALL,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 92-0084-PC

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DECISION
AND
ORDER

This matter is before the Commission as an appeal from a reallocation decision. It was consolidated for hearing purposes with two other related matters, Sailor v. DER, 92-0086-PC , and Bloom v. DER, 92-0088-PC. The issues for hearing in the three matters are as follows:

Whether respondent's decision to reallocate appellants' positions to Instrument Maker-Advanced instead of Engineering Specialist-Senior was correct.

FINDINGS OF FACT

1. The Physical Sciences Laboratory (PSL) is a facility operated by the University of Wisconsin. The appellant is employed in the unit of the facility entitled the "Mechanical Group." More specifically, the appellant is employed in the PSL machine shop. The function of the PSL that is relevant to this appeal is the production of highly specialized scientific equipment
2. Appellant's immediate supervisor at all relevant times has been Bill Cotter, Mechanical Shop Supervisor.
3. Appellant was hired at the PSL as an instrument maker. He subsequently became a leadworker and was classified at the Engineering Technician 5 level. As a consequence of the Engineering survey, his position was reallocated to the Engineering Specialist Senior classification effective June 17, 1990. Then, as part of the Maintenance Mechanic and related survey, his position was reallocated to the Instrument Maker-Advanced classification, effective February 9, 1992.

4. The appellant's duties are accurately described in his position description, a copy of which is attached hereto and incorporated by reference as part of this finding.

5. Appellant fabricates parts but he also lends expertise to other instrument makers, coordinates projects, inspects parts and determines their suitability and acceptance from engineering blueprints. This requires the appellant to understand engineering standards, tolerances, the specifications, geometric dimensioning tolerancing, heat treating and all the information that is on the engineering blueprints. As a general matter, the appellants must understand how the individual parts are going to be used in the apparatus which is being constructed.

6. Immediately prior to June 17, 1990, the appellant's position was classified at the Engineering Technician 5 level.

7. Effective June 17, 1990, the respondent issued a classification specification entitled Engineering Specialist. The specification reads, in part, as follows:

B. Inclusions

This series encompasses professional engineering specialist positions. These positions devote the majority of their time and are primarily responsible for providing engineering specialist duties in their assigned program area. These positions have responsibilities for specific aspects of a larger architecture/engineering management program.

C. Exclusions

Excluded from this series are the following types of positions:

* * *

3. Technical program support assistants, more appropriately identified by other class series such as ... Instrument Maker ... whose work involves complex and specialized electronic, electrical, mechanical, communication or craft functions involving the design, installation, systems analysis, repair, calibration, testing, modification, construction, maintenance or operation of equipment, machines, control systems, instruments or other comparable devices. These positions do not provide direct technical assistance to professional architectural or engineering employees, activities and programs.

* * *

II. DEFINITIONS

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Engineer Specialist - Senior

This is senior level engineering specialist work. Employees at this level differ from lower level positions in that the engineering specialist has responsibilities for a specific program. The incumbent develops and follows broadly defined work objectives and the review of work is limited to administrative evaluation by the supervisor. Positions at this level have extensive authority within their assigned program area. The engineering specialist is considered the expert in the assigned area. Work is performed under direction.

REPRESENTATIVE POSITIONS

Department of Natural Resources

Natural Resources Engineering Technician - Perform technical engineering services for natural resource related facilities which include waterfowl impoundments, rearing ponds, secondary roadways, trails, public access facilities, channel improvements and water control structures. Inspect existing state-owned facilities and notify managers of existing or potential health and safety code violations and potential maintenance problems.

University of Wisconsin

Engineering Specialist - Responsible for the design, fabrication, and assembly of highly complex mechanical components of scientific instruments and machinery which support research and/or instruction programs in departments or centers. Provide expert consultation to engineers, scientists and students regarding design and fabrication issues and problems, may oversee machining and fabrication operations. The hardware that is build is frequently prototypical (one-of-a-kind) and may require the development of unique, innovation methods or machining and fabrication. These positions function at a level of technical expertise and skill above that normally identified in Instrument Maker positions.

8. Pursuant to the ES specifications, the appellant's position was reallocated to the ES - Senior level, effective June 17, 1990.

9. The appellant's duties and responsibilities fall within the scope of the ES Inclusions statement and the ES - Senior Definition statement. The ap-

pellant's duties are accurately described by the ES-Senior representative position under the heading of the University of Wisconsin.

10. Effective February 9, 1992, respondent issued a new position standard for the Instrument Maker (IM) series. The position standard is attached to this decision and is included in this finding.

11. The appellant's position was reallocated to the IM - Advanced level, effective February 9, 1992. The appellant subsequently appealed the reallocation decision to the Personnel Commission.

12. The appellant's duties and responsibilities are specifically described by the IM Inclusions statement and by the IM - Advanced Definition. At least 75% of the appellant's time is spent performing duties identified as work examples under the IM - Advanced level. Appellant performs 12 of the 16 work examples listed at that level. Appellant also performs the work examples listed for the IM - Entry & Journey levels. All of the appellant's time is spent performing work which is identified as a work example in the IM position standard.

13. The appellant's specialized area as referenced in the IM - Advanced definition is in diagnosing a problem on an existing but non-functioning piece of equipment.

14. The position in the PSL machine shop occupied by Paul Sannes was classified as a consequence of the Maintenance Mechanic and related survey at the IM - Journey level. Mr. Sannes appealed this allocation and has sought placement of his position at the IM - Advanced level. The position summary in Mr. Sannes' position description reads as follows:

This position carries responsibilities involving the design, construction, assembly, and testing of highly specialized scientific equipment which is produced by the Physical Sciences Laboratory for use at research institutions around the world. These responsibilities are carried out primarily through the use of advanced computer techniques (Computer Aided Design (CAC), Computer Aided Manufacturing (CAM)) and Computer Numerically Controlled (CNC) machining equipment.

Mr. Sannes spends a higher percentage of his time than the appellant on the fabrication of parts, and a smaller percentage of time on design. The appellant performs the inspection of the parts that Mr. Sannes produces. The appellant

does not use the specialized Hermle CNC milling machine and associated computer programming which is utilized by Mr. Sannes.

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 by a preponderance of the evidence that respondent erred by reallocating the appellant's position from the Engineering Specialist - Senior level to the the Instrument Maker - Advanced level.
3. Appellant has not sustained his burden of proof and the Commission concludes that respondent did not err in allocating the appellant's position to the Instrument Maker - Advanced level.

OPINION

The appellant is one of three persons whose positions at the PSL were reallocated, effective February 9, 1992, from the Engineering Specialist - Senior (ES - Senior) level to the Instrument Maker - Advanced level as part of a classification survey which included the promulgation of a new position standard for the Instrument Maker series. The appellant contends that his position is better described by the ES - Senior specifications which were issued about 18 months earlier.

The respondent offered testimony from the drafter of the ES specifications in an effort to describe the classification route followed by the appellant's position. The witness testified that the appellant's position was one of several positions at the PSL which had, in the 1980's, effectively "outgrown" the existing Instrument Maker specifications. The positions were moved to the Engineering Technician 5 level which was at a higher pay level, a competitive selection process occurred, and the appellant was one of the successful candidates. Early in the course of carrying out the Engineering classification survey, respondent concluded that these positions were not properly assigned to the Engineering Technician series, but they were unwilling to return the positions to the existing IM series because to do so would have resulted in a demotion and the available compensation information indicated that these posi-

tions were already below the market midpoint. As a consequence, the respondent opted to include them within the scope of the Engineering survey in a "holding pattern" until respondent had the opportunity to carry out a new survey which included positions in the existing IM series. This was accomplished by including a representative position at the ES - Senior level and reallocating the appellant's position to that level as part of the Engineering survey, effective June 17, 1990. Respondent included the appellant's position as well as positions in the existing IM series as part of the Maintenance Mechanic and related survey. This survey resulted in the issuance of a new IM series which includes very specific language in the Inclusions section, Definition section and Work examples.

Respondent's witness also testified that respondent intends to remove the UW representative position at the ES - Senior level when the ES specifications are rewritten, which is to occur after all appeals from the Engineering Survey have been decided.

In this case, there is specific language in each of two specifications which describe the appellant's position. The Commission agrees with the respondent that the IM series, and specifically the IM - Advanced level, more specifically describes the appellant's duties.

In Foris v. DHSS & DER, 90-0065-PC, 1/24/92, the Commission explained its analysis of a classification dispute as follows:

In general, Examples of Work Performed as identified in a classification specification are designed to be just "examples." These examples are not meant to be all inclusive of every position identified at a particular classification level. It is also not unusual to find that the duties and responsibilities of a position might be identified in more than one specification as examples of work performed.

A classification specification must be read in its entirety as one document. Segmenting a specification and attempting to find specific words or phrases which can be matched to the duties and responsibilities assigned to a position is not dispositive of the appropriate classification of a position. The duties and responsibilities of the position and the classification specification must be reviewed in their entirety to determine the best fit.

The Commission has also previously analogized class specifications to a set of statutes or administrative rules, in terms of applying rules of statutory construction when interpreting the specifications. Klepinger v. DER, 83-0197-PC,

5/9/85; reversed on other grounds by Dane County Circuit Court, DER v. Wis. Pers. Comm., 85-CV-3022, 12/27/85.

In Green Bay Education Assoc. v. Dept. of Public Instruction, 154 Wis.2d 655, 453 N.W.2d 250 (Ct. App., 1990), the court relied "upon the accepted rule of construction that the most recent and most specific statute prevails when construing statutes that appear to be in conflict." (citation omitted)

Here the most recent specification is clearly the IM series. One clear indication of this relative specification of the two series is the high degree of variation between the two representative positions identified at the ES - Senior level. One representative position, that of the DNR Engineering Technician works on ponds, roadways and trails, while the representative position at the UW is described as working on highly complex scientific instruments. In addition, respondent's witness testified that the allocation of the appellant's position to the ES - Senior class was only intended to be a holding pattern until such time as the IM survey could be completed. When it was completed, it generated a very specific position standard which clearly was intended to include positions such as the one filled by the appellant. The IM Inclusion statement and the IM - Advanced definition are both more specific than their counterparts found in the ES series. While it is true that the ES - Senior representative position very accurately describes the appellant's duties, those duties are also very accurately described by a majority of the work examples set forth in the IM series. The appellant admits that his position is accurately described in the IM work examples.


The placement of the Sannes position in the IM series supports the classification of the appellant's in the same (i.e., Instrument Maker) series given that they are involved in the same process. The differences are not based on the language of the ES specifications, but are due to using different machines and, to some extent, having different roles in the production process.

ORDER

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

Dated: August 23, 1993 STATE PERSONNEL COMMISSION

KMS:kms
K:D:Merits-reall (Randall)


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

Parties:

John Randall
1417 Jackson Street
Stoughton, WI 53589

Jon E. Litscher
Secretary, DER
P.O. Box 7855
Madison, WI 5370

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.

APPELLANT'S

Randall v. DER
92-0084-PC

INSTRUMENT MAKER ADVANCED
(Formerly Engineering Specialist - Sr.)

EXHIBIT # 101

Position

Summary:

The major responsibility of this position is to design, fabricate, assemble and test highly complex mechanical components of scientific instruments and apparatus which support research and instructional programs in departments and research centers. This may include the following: (1) providing expert consultation to engineers, scientists and students regarding a wide variety of instrument design and fabrication issues and problems, (2) directing machining and assembly work performed by other staff such as Instrument Makers, Mechanics or graduate students, and (3) performing very advanced, highly precise machining and fabrication operations. The apparatus that is constructed is frequently prototypical (one-of-a-kind) and may require the development of unique, innovative methods of machining and fabrication.

- 25% A. Design mechanical instrumentation and systems used for research and instructional purposes.
- A1. The incumbent consults with faculty, researchers, engineers and graduate students regarding proposed designs for instrumentation to determine the function of the apparatus, special requirements and limitations.
 - A2. This position involves evaluating plans, blueprints and rough sketches, suggesting changes and improvements when necessary.
 - A3. The incumbent is relied on to select materials for construction in consideration of their physical properties and costs.
 - A4. This position determines fabrication methods, dimensional details and other details of construction.
 - A5. The incumbent is responsible for designing unique and specialized tools, fixtures and jigs to aid in fabricating and assembling parts to very exact tolerances.
- 60% B. Fabricates and assembles highly complex, precision mechanical components for scientific instruments.
- B1. This position requires a high degree of mental/physical skill in the operation of high precision machine shop equipment such as lathes, milling machines, boring mills, surface grinders (internal and external) and precision measuring instruments.
 - B2. The incumbent fabricates unique and specialized tools, fixtures and jigs to aid in fabricating and assembling parts to very exacting tolerances.

- B3. Assembles fabricated parts and makes on the spot modifications of nonconforming parts to comply with overall specifications. Inspects and tests final configuration of assembled components for conformance to design.
- 5% C. Inspects and tests final configuration of highly complex mechanical assemblies and components for conformance with design parameters.
- C.1. This position is responsible for assembling fabricated parts and making immediate modifications to correct improperly configured parts and assemblies.
 - C.2. This position is also responsible for repairing, modifying, designing and installing improvements to existing instruments, laboratory equipment and Instrument Shop Tools.
- 10% D. This position carries responsibilities for assisting other Instrument Makers with difficult problems and may assume responsibility for shop operations in the absence of the Supervisor.
- D.1. Assumes responsibility for shop operations in absence of Supervisor to include: answering questions, assigning work, and insuring quality.
 - D.2. Prepares estimates for new work.
 - D.3. Orders material and new tooling.

Employee: John Randall Date: 10-23-99
 Supervisor: Bill Cotton Date: 10-23-72
 Personnel: _____ Date: _____

OCT 20 1992
Personnel
Commission

STATE OF WISCONSIN
POSITION STANDARD
INSTRUMENT MAKER

Respondent's Exhibit # 1

I. INTRODUCTION

A. Purpose of This Classification Specification

This classification specification is the basic authority [under Wis. Admin. Code ER-Pers 2.04] for making classification decisions relative to present and future Instrument Maker positions. Positions allocated to this series are primarily responsible for providing specialized machinist or tool and die work. This classification specification will not specifically identify every eventuality or combination of duties and responsibilities of positions that currently exist, or those that result from changing program emphasis or organizational structures in the future. Rather it is designed to serve as a framework for classification decision-making in this occupational area.

B. Inclusions

This series encompasses Instrument Maker positions found in the Technical Bargaining Unit, a located at colleges throughout the University of Wisconsin System. These positions devote the majority of their time and are primarily responsible for the design, construction, inspection, testing and possibly shipping of highly specialized equipment including but not limited to mechanical laboratory and precision instruments. Positions in this series generally work with machine shop equipment when constructing instruments.

C. Exclusions

Excluded from this series are the following types of positions:

1. Maintenance positions, more appropriately identified by other class series such as Maintenance Mechanic, Automotive Mechanic, Facility Repair Worker, etc., whose work includes building mechanical systems maintenance, automobile maintenance, building maintenance or other types of maintenance;
2. Engineering Specialist positions whose work is primarily responsible for specific aspects of a larger architecture/engineering management program;
3. Mechanician positions whose work is primarily involved with modification and maintenance of equipment;
4. Equipment Fabricator positions whose work includes modifying trucks, tractors, trailers and other specialized equipment for fire control units and other Department of Natural Resource functions;
5. All other positions which are more appropriately identified by other series.

D. Entrance and Progression Through This Series

Employees typically enter this classification series by competitive examination for entry-level positions. Progression to the journey-level will normally occur through reclassification. Progression to the advanced-level will normally occur through competitive examination. However, reclassification of a position from the journey-level to the advanced-level may be permitted when it can be demonstrated that the change in duties and responsibilities justifying the class change are a logical and gradual outgrowth of the positions's previous duties and responsibilities. It is anticipated that not all positions in this series will reach the advanced-level.

E. Classification Factors

Individual position allocations are based upon the ten Wisconsin Quantitative Evaluation System (WQES) factors: Knowledge; Discretion; Complexity; Effect of Actions; Consequence of Error; Personal Contacts; Physical Effort; Surroundings; Hazards; and Leadwork/Supervisory Responsibilities. Please refer to the WQES Master Guidecharts for explanations of each of these factors and their corresponding levels.

F. How To Use This Classification Specification

This classification specification is used to classify Technical Bargaining Unit positions as described under Section B of this classification specification. In most instances, positions included in this series will be clearly identified by one of the classification definitions which follow below in Section II. However, a position may evolve or be created that is not specifically defined by one of the classification definitions. In classifying these positions, it would be necessary to compare them to the classification definitions based on the factors described in Section E of the classification specification.

II. DEFINITIONS**INSTRUMENT MAKER - ENTRY**

Under limited, progressing to general supervision, performs as a highly skilled and independent machinist or tool and die maker in the design and creation of unique, highly intricate and precise scientific equipment. Recommends and aids in the layout, design and construction of research instruments utilizing their knowledge of materials, methods, and machine tools to fabricate the required item. Receives direction in the form of blueprints, sketches, and oral descriptions, which may give only details of specific components, with the remainder of the instrument design left to the initiative of the person assigned the project.

INSTRUMENT MAKER - JOURNEY

Under general supervision performs work similar to Instrument Maker-Entry positions. However, the Instrument Maker-Journey position functions more independently and with greater efficiency. This type of independence and efficiency is generally gained through one to two years of experience as an Instrument Maker or other comparable experience in machinist or tool and die work.

INSTRUMENT MAKER - ADVANCED

This is advanced level Instrument Maker work. The work performed is similar to the journey-level except that employees at this level are significantly more involved in the design phase of highly specialized parts, machinery and instruments. Advanced instrument makers are typically in constant contact with the user or client, usually graduate students, professors and researchers, functioning as a consultant to them. In addition,

advanced level instrument makers are often responsible for coordinating, assembling and testing projects. The projects may last six months to a couple of years and require thousands of individual parts. Also, employees at this level are considered experts (i.e., they have advanced knowledge, skills and experience) in a specialized area, such as, but not limited to, high vacuum welding, complex project coordination or student machine shop coordination with an emphasis on providing instruments for advanced scientific research.

III. EXAMPLES OF WORK PERFORMED

Instrument Maker - Entry & -Journey

Produce and assemble unique scientific parts using lathes, milling machines, boring mills, drill presses and other related machines and equipment.

Assist in the designing and building of jigs, fixtures and tools by performing machining operations that cannot be accomplished by conventional methods.

Repair and maintain laboratory instruments.

Design and construct laboratory, teaching and related equipment.

Performs standard welding using a variety of materials including steels, stainless steels, aluminum and other non-standard alloy metals used in the fabrication of parts and equipment.

Set up and operate machine tools for machining task at hand using standard and exotic materials and maintaining tolerances.

Instrument Maker - Advanced

With greater independence, knowledge, skill and latitude in the initiation of action, may perform any of the duties and responsibilities assigned to the Instrument Maker-Entry or -Journey, and in addition may:

Design, construct and refine sophisticated laboratory instrumentation for ultra-high vacuum, optical, particle beam and surface research.

Procure construction and supply materials for projects.

Supervise graduate students in the design and construction of specialized research instrumentation.

Function as the director of a mechanical shop facility in a large science department.

Design, construct and install complex mechanical systems; select materials to use; fabricate equipment and redesign projects.

Schedule work, maintain and calibrate machines, and manage tool, fastener and material inventories.

Maintain the machine and welding shop facility of the Synchrotron Radiation Center.

Design and construct highly specialized, complex instrumentation in the prototype phase.

Coordinate machining, welding, assembling and testing of assemblies.

Travel to facilities as required for final assembly, inspection and testing.

Direct machining and assembly work performed by other staff such as Instrument Maker-Entry and Journey positions, Mechanics or graduate students.

Clean materials used to fabricate ultra high vacuum devices, instruments and assemblies.

Check ultra high vacuum assemblies and devices for leaks.

Maintain and calibrate high vacuum equipment and testing instruments.

Oversee and manage a department machine shop, wood shop and hydraulics laboratory.

Perform advanced design, development, construction, final assembly and testing of sophisticated equipment and precision instruments for research and instruction in the field and laboratory.

IV. QUALIFICATIONS

The qualifications required for these positions will be determined at the time of recruitment. Such determinations will be made based on an analysis of the goals and worker activities performed and by an identification of the education, training, work or other life experience which would provide reasonable assurance that the knowledge and skills required upon appointment have been acquired.

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