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LANGKAMP et al.,
 (Gayle V. Langkamp, Arlene L. Turk,
 Mary W. Walsh, and Anna M. Cole),

Appellants,

v.

Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS,

Respondent.

Case Nos. 92-0160-PC
 92-0179-PC
 92-0180-PC
 92-0203-PC

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RULING
 ON MOTION
 FOR
 SUMMARY
 JUDGMENT

On October 9, 1992, respondent filed a Motion for Summary Judgment. The parties were permitted to file briefs on the Motion and the briefing schedule was completed on November 19, 1992. The following facts appear to be undisputed and are made solely for the purpose of deciding the instant Motion:

1 Pursuant to a personnel management survey, respondent reallocated appellants' positions to the Payroll and Benefits Specialist 3 classification effective March 5, 1992. Appellants filed timely appeals of these reallocations. These appeals stated as follows, in pertinent part:

My reallocation should have been made to the classification of Payroll and Benefits Specialist 4 (1-13). It is my belief that the survey results were skewed and survey process faulty. Reasons for this belief are as follows.

SURVEY PROCESS

1. No official specification were ever distributed to affected agencies. Placements were evidently made independent of agency recommendations on draft specifications.

2. Department of Employment Relations closed survey without notifying affected agencies. Department of Transportation Personnel was still waiting to hear from DER representative Judy Burke on unresolved issues when reallocation notices were issued by DER.

3. Draft specifications did not recognize diverse structures of affected agencies and excluded agencies from having Payroll and Benefits Specialist 4 classification unless....

"...and reports to a supervisor whose primary responsibility is not payroll and benefit."

I believe the intent of this statement was to include small agencies where payroll and personnel functions are supervised by Personnel/Administrative Managers. This is a restrictive and arbitrary definition which selectively excludes agencies.

4. Ratings panel based their recommendations on position descriptions, many of which were outdated, because questionnaires were inadequate. Yet, agencies were told that position descriptions were not a factor.

5. Survey specifications were drawn up on outdated position descriptions. These same position descriptions were presented to the ratings panel for decision making. Survey should have been based upon updated position descriptions, then QA's based on those positions should have been submitted to ratings panel. Obviously, decisions based upon outdated information will reflect little or no change in position duties.

6. Job audits were woefully inadequate. One position in ten was audited in DOT Central Payroll. Mrs. Burke who conducted that audit never discussed duties of individual being audited. She discussed the weather and left.

7. Mrs. Burke's workload with Engineering Survey appeals was too heavy to allow sufficient time for Payroll and Benefits survey. It undercut communication between DER and affected agencies and ratings panel. Directions were not clear and concise, promised status meetings were never held. Input from agencies was restricted and DER became very defensive about working with Payroll Council and agencies

8. Most affected agencies through their individual administrators, the Payroll Council and Human Resource Management Council contacted DER repeatedly throughout the course of the survey to express their concern with the quality of the survey and its limited (restrictive) scope. Their concerns and questions on quality of survey were not addressed until placements by DER were final. Such issues not addressed were stratification, no recognition of complexity of duties, poor communications with affected agencies and their personnel representatives responsible for survey and NO supervisory specifications to accompany the staff specifications. How can DER place staff

without addressing the positions of the individuals supervising that staff? Supervisory positions were addressed in the Engineering Survey.

ARBITRARY/INCONSISTENT APPLICATION OF SPECIFICATIONS

1. Survey did not recognize the importance of "consequence of error", including the levying of fines and interest penalties, when applying specifications and reallocating positions.

2. My position functions as expert technical adviser to individuals who are at same, higher and lower classifications in district offices.

3. DER stated that after initial conferences they were now changing the ground rules and a Specialist 4 classification was now controlled by the criteria that it must have a satellite office which has staff in the payroll and benefits series. At DOT we have a system of district (satellite) offices, people who were performing payroll & benefits duties 50% of the time. The one criteria missing was their job title. The survey's thrust in part was to address that issue. It did.

4. My position is responsible for major ETF report as well as benefit coordination, implementation and interpretation.

5. A position should be defined by the duties its performs and the degree of supervision under which those duties are performed, not by the "job title" of classification supervising it.

6. Level of accountability, job complexity and knowledge of federal, state laws, negotiated bargaining agreements (up to 15) and degree of discretion exercised was not address. Comparable positions at a range 13, such as Administrative Assistant 4, may have less stringent requirements

Therefore, I believe my position met the specifications of Payroll & Benefits Specialist 4 as defined by DER and was not so placed.

COMPENSATION AND MOVEMENT

1. Pay stratification was not included in this survey as it was in the Engineering and Security and Public Safety surveys, recent negotiated settlements and the upcoming fiscal survey. This seems discretionary. A precedent was set by prior surveys which was ignored here. Without pay stratification there is no way to equitably recognize valued long time employees and their expertise.

2. Compression of classification levels is extreme and inconsistent with other surveys such as on-going fiscal survey. In fact, at a Payroll Council meeting the question of the possibility of the survey creating entry, developmental and senior classification levels was asked of Judy Burke. Her response in part was "that it was likely that compression was more likely since there wasn't a 'paper's worth'

of difference between our various classifications and that any one [of] us or someone off the street could simply do each others duties, just as one maintenance mechanic could take over another's duties.

This statement was made before survey had been initiate and either reflects superior knowledge on the part of DER and Mrs. Burke or department/personal bias which may have seriously affected the data gathered for the survey and its ultimate conclusion.

For the reasons listed, I feel the correct classification for this position should be Payroll and Benefits Specialist 4-Confidential. I am requesting reallocation to a higher schedule and range along with commensurate compensation and the development and implementation of stratification pay for myself and others affected by this survey.

I would appreciate the prompt scheduling of hearing on this matter.

2. Subsequent to the filing of these appeals, respondent served on each appellant a Request to Admit. In response to these Requests, each of the appellants admitted that: she was contending that her position should be reallocated to the Payroll and Benefits Specialist 4-Confidential (PBS 4-Conf.) level; of the two allocation patterns found at the PBS 4-Conf. level, her position best fit the first allocation pattern, i.e., "[t]his is the level for leadworker positions in Main Payroll and Benefit Offices responsible for coordinating the payroll and benefit functions for the entire department. The employe at this level must work in a complex organization structure having Satellite Payroll and Benefit staff and report to a supervisor whose primary responsibility is not payroll and benefits;" and the position of her immediate supervisor Lynette K. Pauls is classified as a Payroll and Benefits Supervisor 2.

3. The position standard for the Payroll and Benefits Supervisor series states as follows, in pertinent part:

I. INTRODUCTION

A. Purpose of This Classification Specification

This classification specification is the basic authority [under Wis. Admin. Code ER 2.04] for making classification decisions relative to present and future professional payroll and/or benefit supervisory positions....

B. Inclusions

This series encompasses very complex professional positions which supervise Payroll and Benefits Specialists

and Payroll and Benefits Assistants, and/or University Benefit Specialists, and/or Payroll and Benefits Systems Coordinators and/or Payroll and Benefits Supervisors; and which administer, manage, and perform payroll and/or benefit functions. These positions must meet the definition of supervisor as defined in s. 111.81 Wis. Stats.

C. Exclusions

Excluded from this series are the following types of positions:

1. Nonsupervisory positions which spend the majority (more than 50%) of their time performing Payroll and Benefits Specialist, Payroll and Benefits Assistant, Payroll and Benefits Systems Coordinator or University Benefit Specialist duties.
2. Supervisory positions which do not spend the majority (more than 50%) of their time supervising, administering, managing and performing payroll and/or benefit functions.
3. All other positions which are more appropriately identified by other classification specifications.

* * *

PAYROLL AND BENEFITS SUPERVISOR 2

Allocated to this level are one of the following four types of positions:

- 1) A position in the PPPC System in a large Main Payroll and Benefits Office responsible for supervising the payroll or benefits function.

OR

- 2) A position in the PPPC Central Processing Center responsible for the first line supervision of a portion of the payroll or benefits function.

OR

- 3) The position in the WARF System in a medium Main Payroll and Benefits Office responsible for supervising the payroll and benefits functions, and performs University Benefits Specialist duties.

OR

- 4) The position in the DOA System Main Payroll and Benefits responsible for first line supervision of the payroll and benefits functions.

Representative Positions

Milwaukee (Large College, Main Payroll and Benefits Offices): Administer the centralized payrolling for all faculty, staff and student employes; recommend policies and develop payroll procedures. Reports to the Assistant Director of Business and Financial Services. OR Manage the benefits and Workers' Compensation program areas for faculty, academic staff, graduate assistants, classified, limited term, separated and retired employes. Reports to the Assistant Director of the Department of Personnel Services.

PPPC (Central Processing Center): As a first line supervisor, responsible for state/federal payroll tax, social security and FICA (Medicare) reporting and processing; administer the Staff Benefits programs; provide information services; manage the daily operations of the Staff Benefits Office. Reports to the Payroll and Benefits Supervisor 4. OR As a first line supervisor, responsible for providing counseling and information services so that employes can make intelligent decisions about available insurance coverage and other fringe benefits while working and upon retirement; provide accurate and timely reporting of information to agencies and vendors to assure appropriate and continuous coverage for employes; complete and file remittance reports timely, maintain documentation and statistical information for use in budgeting future benefit costs; and structure programs and operations to control and minimize risk management costs. Reports to the Payroll and Benefits Supervisor 4.

Stout (WARF System, Medium Office, Main Payroll and Benefits Office): Serve as benefits counselor/manager for all employes; supervise and manage the Employee Data Base, the Payroll and Benefits Office and staff and administration of payroll. Reports to the Director of Human Resources.

Department of Transportation (DOA System, Main Payroll and Benefits Office): As the first line supervisor, responsible for WIDOT Time and Travel System and the processing and auditing of department information for input into the Central Payroll System. Direct the maintenance of records and preparations....

4. The position standard for the Payroll and Benefits Specialist series states as follows, in pertinent part:

PAYROLL AND BENEFITS SPECIALIST 4

This is the level for lead worker positions in Main Payroll and Benefit Offices responsible for coordinating the payroll and benefit functions for the entire department.

The employe at this level must work in a complex organization structure having Satellite Payroll and Benefits staff and report to a supervisor whose primary responsibility is not payroll and benefits.

OR

This is the objective level for the position performing very complex advanced payroll and benefit work at the WARF Central Processing Center.

Representative Positions

Department of Public Instruction - Responsible for coordinating the fringe benefit counseling program and the payroll functions for the entire Department. Supervision is received from the Personnel Administrative Officer. Leadworker over Payroll and Benefits Specialist 3 staff and oversight of work performed by Payroll and Benefits Specialist 3 staff in a satellite office.

Department of Veterans Affairs - Responsible for coordinating the entire Department's payroll and employe benefits programs. Supervision is received from the Personnel Administrative Officer. Leadworker over Payroll and Benefits Specialist 3 staff and oversight of work performed by Payroll and Benefits Specialist 3 staff in a satellite office.

5. Appellants' supervisor is classified as a Payroll and Benefits Supervisor 2 and has the following duties and responsibilities:

50% A. Supervision - Payroll Unit

A1. Responsible for supervision of payroll staff who process department payroll materials.

A2. Interpret laws, guidelines, administrative rules and determine appropriate training for staff to meet changing needs.

A3. Implement operational changes when appropriate and provide appropriate training to staff for these changes.

A4. Conduct annual performance evaluations of payroll staff and recommend Pay Plan increases; determine training needs of staff for more effective operations.

A5. Review and determine payroll impact of collective bargaining grievance settlements and disseminate information to staff.

23% B. Payroll Management - Payroll/Benefits

10% C. Program Management - Time and Travel/WISPAY/TACS

C1. Direct administrative and technical tasks related to maintaining the data bases of the WIDOT Time and Travel System.

C2. Direct the payroll processors, payroll coordinators/ timekeepers (120) in the input, corrections, and adjustments to the DOT Time and Travel Data Collection System.

C3. Coordinate the file transfer of the DOT Time and Travel Data Collection System payroll information to the DOA Time and Collections System (TACS).

C4. Direct the correction of the TACS Warning and Error Reports to insure accuracy of input.

C5. Direct the correction of the WISPAY ERROR REPORTS to insure accuracy.

C6. Direct on-line changes to WISPAY to insure accuracy.

10% D. Section Management - Support

D1. Assist Section Chief in providing problems resolution and training services to DOT payroll coordinators/timekeepers.

D2. Assist Section Chief in development of administrative policies and procedures for department payroll program.

D3. In the absence of Section Chief, function as Payroll Program Manager.

D4. Prepare payroll correspondence, providing administrative direction to department payroll coordinators/timekeepers for consistent and effective payroll operations

D5. Direct the development of training programs for Department Payroll Coordinators/Timekeepers.

D6. Direct the development and maintenance of a departmental payroll operations manual.

5% E. Automated Leave System

2% F. Unemployment Compensation

The basis for respondent's Motion is its argument that, since it is a requirement that positions classified at the PBS 4-Conf. level be supervised by a position whose primary responsibility is not payroll and benefits and since appellant's positions are supervised by a position whose primary responsibility is payroll and benefits, respondent is entitled to judgment as a matter of law.

The merits of a motion for summary judgment may only be considered by the Commission if there is no genuine issue as to any material fact. Appellants contend that a factual issue exists as to whether their supervisor's position's primary responsibility is payroll and benefits. This is the only cognizable dispute to which appellants allude in their response to the motion. However, it appears to the Commission, in view of the undisputed content of the supervisor's position description as well as the language of the Payroll and Benefits Supervisor 2 (PB Sup 2) classification specification, that no genuine issue actually exists in this regard. It is undisputed that appellants' positions' supervisor is classified as a PB Sup 2 and that she performs the duties and responsibilities specified in her position description. It is clear from the PB Sup 2 specification that positions in this classification spend the majority of their time supervising, administering, managing, and performing payroll and/or benefit functions. It is apparent from the supervisor's position description that this position devotes 50% of work time to supervising a payroll unit and the other 50% of work time to payroll/benefits management (23%), to management of the time and travel accounting program and its interface with the payroll system (10%), to assisting the section chief with his/her responsibilities in the payroll program (10%), to duties related to the automated leave system (5%), and to duties relating to unemployment compensation (2%) Clearly, the primary responsibilities of this position, whether they are supervisory, management, administrative or line responsibilities, are payroll and/or benefits responsibilities. To assert, as appellants do, that supervising a payroll unit does not constitute a payroll and benefits responsibility, is disingenuous, and does not, under the circumstances apparent here, raise a genuine issue of fact


The above analysis also leads to the conclusion that appellants' positions fail to satisfy one of the clear requirements for classification at the PBS 4-Conf. level, i.e., that their positions ". . . must . . . report to a supervisor whose primary responsibility is not payroll and benefits." Since the Commission does not have the authority to ignore or rewrite classification specifications but must apply them as written, [Zhe et al. v. DHSS & DP, 80-285, 286, 292, 296-PC (11/19/81) , aff'd by Dane Co. Circ Ct., Zhe et al. v. Pers. Comm., 81-CV-6492 (11/82); Somers et al. v. DER, 91-0199-PC (7/8/92); Von Ruden et al. v. DER, 90-0138, etc.-PC (7/8/92)], the necessary conclusion is that respondent's Motion for Summary Judgment must be granted.

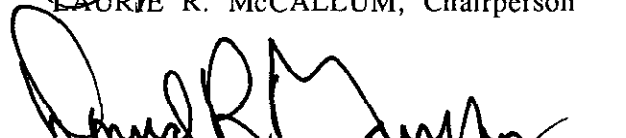
ORDER

Respondent's Motion for Summary Judgment is granted and these appeals are dismissed.

Dated: December 17, 1992

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner

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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.