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JAMES A. STEINKE, *

Appellant, *

v. *

Secretary, DEPARTMENT OF *

EMPLOYMENT RELATIONS, *

Respondent. *

Case No. 92-0322-PC *

* * * * *

DECISION
AND
ORDER

Nature of the Case

This is an appeal of a reallocation decision. A hearing was held on June 7, 1993, before Laurie R. McCallum, Chairperson.

Findings of Fact

1. At the time of the survey which resulted in the subject reallocation, appellant's position was assigned to the Kettle Moraine Springs Fish Hatchery within the Southeast District of the Department of Natural Resources. The duties and responsibilities of appellant's position at the time of the survey are accurately described as follows in a position description signed by him on January 13, 1992:

- 55% A. Performance of coldwater propagation techniques for the culture of trout and salmon (80% wild strains) for the statewide fisheries management program.
- 25% A1. Propagate wild trout and salmon strains especially in hatchery buildings #1 and #2 including spawning and hatching eggs, operating automatic timed feeding systems, vacuum rearing units, monitor systems to meet standards.
- 7% A2. Spawn captured wild broodfish and prepare eggs for transport at off-station broodstock collection facilities.
- A3. Install and operate various air diffusion, O2 injection and mechanical aeration devices and monitor resulting environmental parameters.

- 10% A4. Monitor and/or treat fish for disease, conduct disinfections of equipment and systems to prevent disease occurrences.
- 10% A5. Record data on fish mortality, growth, food conversion, propagation techniques and environmental data to generate an index of hatchery production efficiency.
- A6. Transport and stock fish at designated sites to insure survival and optimum return.
- 10% B. Limited propagation of coolwater species.
 - B1. Assist in capture of coolwater broodfish species (i.e., walleyed pike, suckers, northern pike).
 - 5% B2. Spawn and prepare eggs for transport to hatchery.
 - B3. Operate a small 20 jar coolwater hatching battery.
 - B4. Prepare fry for transport to stocking sites.
- 25% C. Maintenance of buildings, grounds, physical plant and equipment to insure continuous hatchery operations.
 - 5% C1. Maintain water collection systems and two high capacity well systems to insure water flow to the hatchery.
 - 5% C2. Maintain iron removal systems and equipment to control dissolved and ferric iron content of water.
 - 5% C3. Maintain pH meters, O₂ meters, ammonia meter and related water quality monitoring equipment in operable condition.
 - C4. Utilize training in welding to maintain equipment and construct equipment for hatchery operations.
 - 5% C5. Operate all related equipment to meet goal C.
 - C6. Direct LTE labor in completion of tasks necessary to meet goal C.
- 5% D. Development of new hatchery equipment and facilities to improve fish production capabilities of the hatchery.
 - D1. Construct specialized equipment and build custom equipment to provide effective culture of cold and coolwater species.

5% E. Provision of informational services to the public to promote understanding of hatchery and general fishery management programs.

E1. Conduct scheduled hatchery tours.

E2. Answer personal contact and telephone inquiries.

E3. Provide technical logistic support for fisheries operations as necessary.

Appellant's position is primarily responsible for performing the cold water fish propagation activities for Buildings 2 and 3 of the Kettle Moraine Springs Hatchery.

2. As the result of a personnel management survey conducted by respondent, appellant's position was reallocated to the Fish Propagation Technician 3 (FPT 3) classification effective February, 1992. Appellant filed a timely appeal of this reallocation with the Commission.

3. Appellant's position reports to a lead worker position which functions as the Kettle Moraine Springs Hatchery foreman. This position was reallocated to the Fish Propagation Technician 4 (FPT 4) classification as the result of the subject survey. Appellant's position and this FPT 4 position are supervised by the Kettle Moraine Springs Hatchery supervisor.

4. The following positions were offered for comparison purposes in the hearing record:

a. John J. Komassa--FPT 4--Kettle Moraine Springs Hatchery--this position functions as the hatchery foreman (See Finding of Fact 3, above) and is responsible for directing as well as performing cold water propagation activities; directing as well as performing activities to maintain the hatchery physical plant, grounds, systems, and equipment; developing new hatchery equipment and facilities to improve fish production capabilities; and providing information services to the public to promote understanding of fish hatchery operations.

b. Allan R. Nelson--FPT 3--Kettle Moraine Springs Hatchery--this position has duties and responsibilities which are generally parallel to those of appellant's position except that this position is responsible for the cold water fish propagation activities of Building 3 of Kettle Moraine Spring Hatchery. This position reports to the Komassa lead worker position and is supervised by the hatchery supervisor.

c. Richard Klett--FPT 3--Wild Rose Hatchery--this position reports to the cold water fish propagation lead worker and serves as the assistant to this lead worker; conducts cold water propagation operations; harvests fish and assists in fish distribution; maintains buildings, grounds, and equipment; and carries out public information and liaison duties.

d. Thomas Van Effen--FPT 4--Wild Rose Hatchery--this position functions as the cold water fish propagation lead worker and is responsible for assisting the propagation program supervisor in planning, budgeting, and general supervision of the cold water program; for directing the cold water propagation activities; for coordinating and directing fish harvesting and distribution; for coordinating and directing the maintenance of buildings, grounds, and equipment; and for participating and assisting in program and facilities planning.

e. Dennis Kobes--FPT 4--Woodruff Fish Hatchery--this position functions as a lead worker under the supervision of the hatchery supervisor and is responsible for directing the warm/cool water hatchery operation; coordinating fish harvest and distribution; coordinating and directing the maintenance of buildings, grounds, and equipment; and participating and assisting in program and facilities planning.

f. Kenneth Wolff--FPT 4--Lake Mills Fish Hatchery--this position assists the propagation program supervisor in planning, budgeting, and management activities; directs cold water fish propagation operations; assists in maintenance of buildings, grounds, and equipment; participates and assists in program and facilities planning; and assists in fish harvest and coordinates fish distribution.

g. Robert Fahey--FPT 4--Lake Mills Fish Hatchery--this position parallels the Wolff position (See Finding of Fact 4. f., above) but functions as the lead worker for warm water fish propagation.

h. T. Carpenter--FPT 4--Wild Rose Fish Hatchery--this position parallels the Van Effen position (See Finding of Fact 4. d, above) but does so for warm water fish propagation.

i. Gary Holbauer--FPT 4--Thunder River Hatchery--this position functions as the lead worker of the cold water fish propagation activities and is responsible for certain program planning and scheduling activities; for directing the cold water propagation activities; for coordinating management and maintenance of hatchery property; coordinating and directing fish distribution; preparing and monitoring hatchery operating budget; and serving as supervisor in supervisor's absence.

j. Glenn Keller--FPT 4--Osceola Fish Hatchery--this position serves as the assistant manager of the Osceola Trout Hatchery and Rearing Station with responsibility for development and

maintenance of a select stock of brood trout; for directing the spawning and hatching of salmonid fishes; for directing the rearing of salmonid fishes; for coordinating disease control in the hatchery; for directing, assisting in, and performing fish distribution; and for directing and performing facilities and equipment maintenance.

5. The Fish Propagation Technician classification specification states as follows, in pertinent part:

FISH PROPAGATION TECHNICIAN 3 - Positions at this level have specific program responsibility for a portion of a hatchery or field program generally as the Assistant Foreman to either a Fish Propagation Technician 4 (Hatchery or Field Foreman) or Assistant Foreman to the Assistant Hatchery Supervisor. Many positions at this level will have ongoing responsibility for guiding or assisting in guiding a staff of lower level Fish Propagation Technicians as well temporary helpers.

Representative Positions

Assistant Hatchery and Musky Foreman - Under the direction of the Woodruff Fish Hatchery and Musky Foreman, function as the Assistant Field Foreman by providing direction and performing spawning operations for walleye and suckers. Provide direction to the walleye rearing and distribution program assigned to the North Central District, as well as personnel assigned to carry out the program. Function as the Field Foreman in his or her absence.

Assistant Walleye Foreman - Under the direction of the Woodruff Fish Hatchery Field Foreman, provides direction and implements spawning operations, rearing of warm water fish and fish distribution. Assumes the Field Foreman duties during his or her absence.

Assistant Muskellunge Rearing Pond Foreman and Forage Operations Crew Leader - Under the direction of the Woodruff Fish Hatchery and Musky Foreman, coordinates the muskellunge spawning, propagation and distribution program activities. Assumes the responsibilities of the Rearing Pond in the absence of the Foreman.

FISH PROPAGATION TECHNICIAN 4 - Positions at this level: 1) function as the Foreman over a significant program area at a fish hatchery or pond; or 2) serve as the principal assistant to the Hatchery Supervisor. Positions report directly to the Fish Hatchery Supervisor; or the Assistant Hatchery Supervisor if the facility is located remote to the main facility. Positions at this level have lead responsibility over lower level Fish Propagation Technician staff and are typically responsible for assisting in the planning, budgeting and implementation of their assigned programs.

Representative Positions

Walleye Pond Field Foreman - Under the general supervision of the Hatchery Supervisor, functions as the Field Foreman at the Woodruff Fish Hatchery and provides oversight and direction in the implementation of the spawning and transfer operations; oversee rearing pond management by planning, monitoring and guiding activities; provides or oversees fish distribution; and coordinates or performs net and seine construction and repair. Ensures facility and rearing pond maintenance. Trains and guides subordinate staff.

Coldwater Foreman - Under the direction of the Lake Mills Hatchery Supervisor, functions as the Coldwater Foreman and is responsible for the planning, budgeting and general guidance of the cool water fish propagation facilities and operations. Maintains buildings, grounds and equipment; manage fish culture operations and may coordinate fish distribution.

Warmwater Foreman - Under the direction of the Lake Mills Hatchery Supervisor, functions as the Warmwater Foreman and is responsible for the planning, budgeting and general guidance of the warm water fish propagation facilities and operations. Maintains buildings, grounds and equipment; manage fish culture operations and may coordinate fish distribution.

Warmwater Propagation Crew Chief - Under the direction of the Assistant Hatchery Supervisor, assists in the planning, budgeting and general guidance of the warmwater fish propagation facilities at the Wild Rose Hatchery. Directs staff of lower level Fish Propagation Technicians.

Coldwater Propagation Crew Chief - Under the direction of the Assistant Hatchery Supervisor, assists in the planning, budgeting and general guidance of the coldwater fish propagation facilities at the Wild Rose Hatchery. Directs staff of lower level Fish Propagation Technicians.

6. The duties and responsibilities of appellant's position are better described by the language of the FPT 3 classification specification than that of the FPT 4 classification specification and are more closely comparable to the FPT 3 positions offered for comparison purposes than to the FPT 4 positions.

Conclusions of Law

1. This matter is appropriately before the Commission pursuant to §230.4(1)(b), Stats.
2. The appellant has the burden to show that respondent's decision to reallocate his position to the FPT 3 classification rather than to the FPT 4 classification was incorrect.
3. The appellant has failed to sustain this burden.

Opinion

In order to show that his position is properly classified at the FPT 4 level, appellant would have to show that the duties and responsibilities assigned to his position meet the requirements of one of the two allocations described in the FPT 4 specifications.

The first allocation requires that a position function as the foreman over a significant program area at a fish hatchery or pond. As the listing of representative positions demonstrates, this requires that a position direct as well as perform all of the field fish propagation activities or all of the cold water or warm water field fish propagation activities or comparable activities. Appellant's position is involved in only part of the cold water fish propagation activities for a hatchery and does not, as a result, satisfy the requirements of this allocation. In addition, the lead worker of appellant's position, not appellant's position, is designated as a foreman position for the Kettle Moraine Spring Hatchery.

The second allocation requires that a position serve as the principal assistant to the hatchery supervisor. Appellant's position does not meet this requirement.

The FPT 4 classification specification also states that "[p]ositions at this level had lead responsibility over lower level Fish Propagation Technician staff and are typically responsible for assisting in the planning, budgeting, and implementation of their assigned programs. Appellant's position does not function as a lead worker and does not have significant planning or budgeting responsibilities.

The FPT 4 positions offered for comparison purposes in the hearing record are all responsible for "directing" or "coordinating" as well as performing fish propagation activities. However, appellant's position is generally responsible only for performing such activities. This is an important distinction from a general classification standpoint as well as in view of the distinctions made within the FPT classification specification and further justifies the classification of these FPT 4 positions at a higher level than appellant's position.

The FPT 3 specification states that "[p]ositions at this level have specific program responsibility for a portion of a hatchery or field program generally as the Assistant Foreman to either a Fish Propagation Technician 4 (Hatchery or Field Foreman) or Assistant Foreman to the Assistant Hatchery Supervisor.

This describes very well the duties and responsibilities of appellant's position, i.e., his position is responsible for performing a portion of the cold water fish propagation program activities at a hatchery (that part of the program carried out in Buildings 1 and 2) and serves under the direction of the FPT 4 hatchery foreman (Komassa) position. In addition, the duties and responsibilities of appellant's position are comparable to those of the FPT 3 positions offered for comparison purposes, e.g., the Nelson position (See Finding of Fact 4. b., above) is responsible for performing a different portion of the cold water fish propagation program activities at the Kettle Moraine Spring hatchery (that part of the program carried out in Building 3); and the Klett position (See Finding of Fact 4. c., above) serves as the assistant to the cold water fish propagation lead worker and performs cold water fish propagation program activities at the Wild Rose Hatchery.

The duties and responsibilities of appellant's position are more appropriately classified at the FPT 3 level and respondent was correct in reallocating appellant's position to that level.

Order

The action of respondent is affirmed and this appeal is dismissed.

Dated: July 22, 1993 STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson

LRM/dkd


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, 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.