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SUSAN D. GALLAGHER,

Appellant,

v.

Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,

Respondent.

Case No. 92-0335-PC

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DECISION  
AND  
ORDER

This is an appeal of a reallocation decision. A hearing was held on October 26, 1993, before Laurie R. McCallum, Chairperson, on the following issue:

Whether respondent's decision to reallocate appellant's position to Medical Technologist-Senior instead of Medical Technologist-Advanced was correct.

The parties were permitted to file post-hearing briefs and the final brief was filed on February 21, 1994.

The duties and responsibilities of appellant's position may be accurately summarized as follows:

52% A. Serve as one of four primary medical technologists in the Clinical Pathology Laboratory, School of Veterinary Medicine, University of Wisconsin-Madison. This position is the primary medical technologist in clinical chemistry and is responsible for coordinating the daily operation of the clinical chemistry section, including operation and troubleshooting of the Kodak Ektachem 500, Beckman E4A, Kodak DT60, Beckman creatinine analyser, osmometer, and spectrophotometer instruments; establishing and monitoring the quality control systems for instrument testing of samples--this position reviews and determines which quality control testing procedures should be purchased and how they should be adapted for use in the clinical chemistry area; coordinating preventive and routine maintenance on assigned instruments; maintaining inventory of reagents and supplies; coordinating the calibration of slide lots

on the Ektachem 500 and DT 60--the DT60 is a desk-top instrument with some of the testing capabilities of the Ektachem 500 and such calibration is necessary primarily on those few occasions when the Ektachem 500 is not functional and the DT 60 is used to test samples from the same source from which samples previously tested using the Ektachem 500 were drawn; establishing, maintaining, and updating a manual of standard operating procedures; assisting clinical pathologists in the adaptation of human testing procedures for use in veterinary context.

33% B. Perform clinical chemistry testing of samples.

10% C. Train and orient other medical technologists, clinical pathology residents, medical technology students, and student help relating to clinical chemistry laboratory procedures, basic testing techniques, instrument operation and maintenance, and quality control procedures.

4% D. Perform administrative duties in the Laboratory and the Veterinary Medical Teaching Hospital, including establishing and maintaining a computerized system of laboratory inventory; assisting and training laboratory personnel in the use of the laboratory computer; maintaining supply of laboratory forms; entering laboratory charges into computer; packaging and submitting specimens to referral laboratories.

1% E. Other duties as assigned.

The other three primary medical technologist positions, i.e., microbiology, immunology, and hematology, in the Laboratory are classified at the Senior level. The clinical chemistry area is similar in complexity to the microbiology area. The Clinical Pathologist positions are responsible for interpreting test results, for participating in rendering diagnoses based on these results, and for reviewing all Laboratory work.

An instrument is a machine with a measurement component. An instrument system is two or more instruments working together. Other than the occasional need to calibrate testing on the Ektachem 500 and the DT60, there are no instrument systems in the clinical chemistry area of the Laboratory.

The vast majority of the tests performed by the clinical chemistry area of the Laboratory are routine serum tests. The more complex and specialized tests such as those for trace metals, hormone assays, and drugs are sent to

other laboratories. Most of the testing for which appellant's position is responsible is well-defined and very little adaptation of human sample test methods needs to be done for use in the veterinary context.

The following is a discussion of some of the more relevant positions offered for comparison purposes in the hearing record:

a. Medical Technologist-Advanced--UW-Madison Hospitals and Clinics--This position has primary responsibility for coordinating the operations of an instrument system composed of two Ektachem 700's, one located in the main laboratory and one in the outpatient laboratory. Although the types of duties and responsibilities carried out by this position are comparable to the types of duties and responsibilities carried out by appellant's position, the Ektachem 700 is a more advanced instrument than an Ektachem 500 and the coordination of the operations of two Ektachems in two separate locations is a significantly more complex function than that performed by appellant's position in relation to its assigned instruments.

b. Medical Technologist-Advanced-UW-Madison Hospitals and Clinics (UWHC)-Clinical Laboratories-Special Chemistry Laboratory--this position has responsibility for quality control, proficiency testing, quality assurance, quality planning and improvement, and inspection and accreditation for three separate laboratories in three separate locations as well as one other related laboratory, whereas appellant's position has some of these responsibilities but for only one section of one relatively small laboratory; these UWHC laboratories do not primarily rely on standard chemistry methods as the laboratory to which appellant's position is assigned does and, as a result, can't rely to the same extent on manufacturers' or other pre-packaged methods and results assessments.

c. Medical Technologist-Advanced-Paula Smith--the primary responsibilities of this position are the operation, maintenance, and troubleshooting of the Hewlett-Packard 5830, Hewlett-Packard 5880, and Hewlett-Packard 5890 gas chromatographs; independent development of new analytical methods for drug testing; and analyses of special drug tests requested by physicians and pharmacists. The gas chromatographer is a significantly more complex instrument than the instruments to which appellant's position is assigned, and drug testing is significantly more complex than the testing carried out by appellant's position.

d. Medical Technologist-Advanced-Thomas Doran--the primary responsibility of this position is the operation and coordination of the trace metals laboratory within the Toxicology section. Trace metals testing and testing instruments are significantly

more complex than the testing and instruments to which appellant's position is assigned.

e. Medical Technologist-Senior-UW School of Veterinary Medicine Clinical Pathology Laboratory--this position has primary responsibility for the overall operation of the microbiology section of the laboratory which is comparable to the chemical chemistry section for which appellant's position is responsible.

f. Medical Technologist-Advanced-Clinical Hematology Laboratory, UWHC-Barb Kutchmarek--this position functions as a lead worker, teacher and consultant/liason for bone marrow testing and performs collection, staining and counting of bone marrow and related specimens. This is a very specialized and complex testing area and this position not only is in charge of other technologists performing this specialized testing but also works directly with the clinical pathologist to read the testing results. This position has oversight and analysis functions which appellant's position does not have and performs these functions in a significantly more complex area than appellant's position.

g. Medical Technologist-Advanced-UWHC Clinical Hematology Laboratory-Paulette Wegner--this position coordinates the operation of the special coagulation laboratory and the development and delivery of specialized training programs in coagulation, and performs coagulation tests and assays and other tests in the areas of clinical hematology, coagulation and urinalysis. The testing coordinated and performed by this position is significantly more specialized and more complex than that coordinated and performed by appellant's position.

The classification specifications for the Medical Technologist series state as follows, in pertinent part:

#### **MEDICAL TECHNOLOGIST, SENIOR**

This is senior level professional medical technologist work. Positions may be located in a hospital clinical laboratory, the State Laboratory of Hygiene, a student health service, a family practice clinic laboratory, the clinical laboratory of certain state institutions, or at the Department of Health and Social Services.

#### **Representative Positions**

**Hospital/Laboratory/Institution Support** - Positions allocated to this class and located in a clinical laboratory perform for a significant amount of time advanced, complex laboratory tests in areas such as: Chemistry, Hematology, Toxicology, Transfusion

Services, Flow Cytometry, Specimen Control; and/or train students and other laboratory personnel in special techniques and instrumentation; and/or have responsibility for a specified area or system. These positions train students and other laboratory personnel in the special techniques and instrumentation and to a lesser degree perform routine tests. In an institutional laboratory setting, positions may also function as the lead medical technologist in a "generalist" capacity, assigning and reviewing the work of others.

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Positions at this level are differentiated from the lower levels by the following additional duties and responsibilities: responsible for a larger instrument system, including troubleshooting, maintenance, inservice training, and documentation; being a team leader in an analytical area; methods or instrument evaluation; functioning as the shift coordinator; having primary responsibility for the teaching/training program in a specified area of a laboratory; and/or may perform specialized testing within a specific area of expertise. Positions at this level may also function as a senior-level laboratory certification specialist.

#### **MEDICAL TECHNOLOGIST ADVANCED**

This is advanced level professional medical technologist work. Positions at this level are located in a hospital/institutional clinical laboratory, the State Laboratory of Hygiene, or the Department of Health and Social Services. Positions allocated to this class are responsible for performing the most advanced, complex test procedures or functions, e.g., functioning as the Blood Inventory Manager, and function using complicated instrumentation in specialized hospital laboratory service areas. Work is differentiated from lower level positions by its specialized, coordinative nature and the consistent use of the incumbent's professional discretion in selecting appropriate approaches, interpreting results and/or developing teaching materials and curriculum. For a significant amount (i.e., greater than 50%) of time, positions at this level are responsible for functions such as: (1) coordinating the development and delivery of medical technology teaching and training; (2) coordinating the operation of a specialized laboratory; (3) the performance of unique specialized tests such as in the trace metals area; (4) coordinating and leading a team in the operation and maintenance of unique, complex laboratory instrumentation; (5) the regulation and certification of laboratories by serving as a scientific expert and consultant in a statewide regulatory and/or consultation program; or other similar functions. The incumbent in a position in this class is the recognized technical expert or principal medical technologist in the area of

specialization. Positions at this level may also function as advanced-level laboratory certification specialists, serving as an expert and consultant in a statewide regulatory and/or laboratory consultation program. Work is performed independently under the general direction of higher level professional staff.

Positions at this level generally have functions/responsibilities in one or more of the following complex areas: laboratory-wide method evaluation; multiple systems or a single system of a very critical nature; QA/QC/Proficiency Testing coordination and review; methods research and development; educational, laboratory-wide safety and orientation training; and other equivalent responsibilities.

The record shows that appellant's position spends the clear majority of time coordinating the operation of a section of a clinical pathology laboratory, including operating and maintaining certain testing instruments and performing certain tests. The record also shows that this laboratory section for which appellant's position is responsible is not a specialized laboratory within the meaning of the specifications for the Advanced classification, i.e., it is a section of a general clinical laboratory and does not compare favorably for classification purposes to a bone marrow laboratory or a coagulation laboratory (see comparison positions f. and g., above); that the majority of the tests carried out in this laboratory section are routine and well-defined, and do not compare favorably for classification purposes to the testing coordinated and carried out by certain Advanced positions such as drug testing and testing for trace metals (see comparison positions c. and d., above); and that the instruments utilized by appellant's position are significantly less complex than those used by certain Advanced positions, e.g., the coordinated Ektachem instrument system and the gas chromatographs (see comparison positions a. and c., above). The duties and responsibilities of appellant's position do not meet the requirements of the specifications for the Advanced classification and do not compare favorably to the duties and responsibilities of the Advanced positions offered for comparison purposes.


The Commission concludes that the duties and responsibilities of appellant's position are well-described by the language of the specifications for the Senior classification, compare favorably to those of the Senior

positions offered for comparison purposes, and that respondent was correct in reallocating appellant's position to the Senior level.


Order

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

Dated: April 19, 1994 STATE PERSONNEL COMMISSION

  
LAURIE R. McCALLUM, Chairperson

LRM:lrn

  
DONALD R. MURPHY, Commissioner

  
JUDY M. ROGERS, Commissioner

Parties:

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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.

Pursuant to 1993 Wis. Act 16, effective August 12, 1993, there are certain additional procedures which apply if the Commission's decision is rendered in an appeal of a classification-related decision made by the Secretary of the Department of Employment Relations (DER) or delegated by DER to another agency. The additional procedures for such decisions are as follows:

1. If the Commission's decision was issued after a contested case hearing, the Commission has 90 days after receipt of notice that a petition for judicial review has been filed in which to issue written findings of fact and conclusions of law. (§3020, 1993 Wis. Act 16, creating §227.47(2), Wis. Stats.)
2. The record of the hearing or arbitration before the Commission is transcribed at the expense of the party petitioning for judicial review. (§3012, 1993 Wis. Act 16, amending §227.44(8), Wis. Stats.)