

* * * * *

GERALDINE K. JACOBSON,

Appellant,

v.

Secretary, DEPARTMENT OF
EMPLOYMENT RELATIONS,

Respondent.

Case No. 94-0147-PC

* * * * *

FINAL
DECISION
AND
ORDER

A Proposed Decision and Order was mailed to the parties on March 3, 1995, after which both parties filed written comments. The Commission considered the parties' arguments, consulted with the hearing examiner and determined that the proposed decision should be adopted as the final decision of the full Commission.

Ms. Jacobson's written arguments included information which was not presented at hearing. This extra record information was not considered by the Commission because the Commission's review is limited to the record developed at hearing.

Ms. Jacobson's written argument included the following statement:

"We are a Sale Program Store. Also self supporting. I don't think it's fair to compare me to a Correctional Institute or a Rental Program Bookstore as I feel you are doing."

The above statement appears to be an objection to the use of comparable positions as a classification tool. It also appears to be an objection to the definition of Storekeeper in the Class Specs which includes reference to specific positions, such as the food supplies operation at Northern Wisconsin Center.

Use of comparable positions as a classification tool is a well-established practice in classification cases. Comparable positions can be useful to demonstrate how respondent has interpreted or applied the criteria listed in Class Specs.

Ms. Jacobson's second objection amounts to her disagreement with the classification criteria used by DER as stated in the Storekeeper Class Specs. The Commission, however, must apply the Class Specs as written. The Commission does not have the authority to rewrite the Class Specs. Zhe et al. v. DHSS & DP, 80-285, 286, 292, 296-PC (11/18/81); aff'd by Dane County Circuit Court, Zhe et al. v. Pers. Comm., 81-CV-6492 (11/82).


ORDER

That the Proposed Decision and Order be adopted as the Commission's Final Decision and that respondent's reallocation of appellant's position to Stock Clerk be affirmed and this appeal be dismissed.

Dated April 20, 1995.

STATE PERSONNEL COMMISSION


LAURIE R. McCALLUM, Chairperson


DONALD R. MURPHY, Commissioner


JUDY M. ROGERS, Commissioner

Parties:

Geraldine Jacobson
910 Taft Avenue
Oshkosh, WI 54901

Jon E. Litscher
Secretary, DER
137 East Wilson Street
P.O. Box 7855
Madison, WI 53707-7855

**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 (except an order arising from an arbitration conducted pursuant to §230.44(4)(bm), Wis. Stats.) 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.

2/3/95

* * * * *

GERALDINE K. JACOBSON,
 Appellant,

v.

Secretary, DEPARTMENT OF
 EMPLOYMENT RELATIONS,
 Respondent.

Case No. 94-0147-PC

* * * * *

PROPOSED
 DECISION
 AND
 ORDER

A hearing was held in the above-noted case on November 29, 1994 and February 10, 1995. The parties declined the opportunity to submit oral or written closing arguments.

The hearing issue was defined at a prehearing conference held on August 30, 1994, as shown below.

whether respondent's decision to reallocate appellant's position to the Stock Clerk classification was correct, or should the appellant's position have been reallocated to the Storekeeper classification.

DISCUSSION

The Department of Employment Relations (DER) conducted a survey of about 450 positions performing material handling duties such as stock clerks and storekeepers. The survey was conducted by DER's classification expert, Evelyn O'Brien. The results of the survey became effective on May 1, 1994.

Ms. O'Brien rewrote the class specifications for Storekeeper and for Stock Clerk as part of the survey process. She compared the position description (PD) for Ms. Jacobson's position (Exh. R-3) to the new class specifications and determined her position should be changed from Storekeeper I (under the pre-survey class specs) to Store Clerk (under the new

class specs). The pay range for Ms. Jacobson's position remained the same. Ms. Jacobson filed an appeal of the changed classification of her position.

Ms. Jacobson's position performs duties as shown below, using the organization of her PD (Exh. R-3) (as amended by credible hearing testimony):

<u>% Time</u>	<u>Description of Duties</u>
<u>55%</u>	<u>A. Performance of merchandise/inventory control duties.</u>
(20%)	A11 Use a designated form to properly communicate pricing information to staff pricing general merchandise.
(10%)	A6 Verify correctness of all merchandise prices with supervisor establishing prices. Per supervisor's approval, markup all existing stock to the new stock price at time new stock arrives.
(5%)	A2 Keep records of all low, out-of-stock & requested items. These records form the basis for her supervisor's decisions about quantity to order, vendor and pricing.
(5%)	A3 Place emergency & selected weekly stocking orders with salespeople, within parameters set by supervisor.
(5%)	A7 Verify mark-downs with management.
For all else-10%	A1 Stock shelves daily.
	A4 Take periodic and yearly physical inventories as designated by management. Does not include independent authority to order. Makes recommendations on ordering (including items to order, amount to order and which vendor to use) with supervisor having final authority.
	A5 Maintain orderliness in stockroom; clean, organize storage facilities.
	A8 Maintain all inventory location records accurately.
	A9 Provide proper merchandise rotation.
	A10 Maintain a clean and neatly merchandise sales floor.
	A12 Maintain inventory control system for supply request merchandise with proper shelf tags in receiving area.
<u>45%</u>	<u>B. Provision of Support Services</u>
(15%)	B2. Coordinate and assign work to student clerks and LTE's in general merchandise areas. Formal supervision (i.e., hiring, firing

- discipline) rests with Ms. Jacobson's supervisor.
- (15%) B5. Check in supply area merchandise once released by shipping and receiving clerk. Includes determining if correct merchandize was received. Determines price per supervisor's prior approval to use list price for some items. Determines correct department to charge for the item received, per established guidelines. Determines if merchandize is damaged, but then supervisor resolves the problem with the vendor.
- (5%) B1. Patrol for shoplifters. Utilize appropriate bookstore procedures in apprehension and processing, includes turning the suspect over to supervisor for further action and resolution.
- For all else-10% B3. Perform shipping and receiving clerk duties in their absence, including unloading trucks and transporting goods from receiving area to stockroom.
- B4. Provide customer assistance.
- B6. Support total quality management efforts by University Bookstore and University. Includes her as-needed and as-assigned membership on workgroups. The workgroup makes recommendations to management for resolution of assigned problem.
- B7. Perform additional duties as assigned by management.
- B8. Maintain quiet, professional atmosphere on store floor at all times.

The new class specs for Stock Clerk (Exh. R-1) include the following relevant text.

Purpose and Use of this Class Spec: This class spec is . . . for making classification decisions relative to . . . positions which receive, store and issue material, supplies, equipment, tools, merchandise or foodstuffs and perform related duties. . . .

Inclusions. This classification encompasses positions which perform a variety of duties associated with receiving, storing, shelving, filling orders and issuing a variety of materials and supplies.

Exclusions. Excluded from this classification specification are positions responsible for spending a majority (i.e., more than 50%) of their work time in the performance of the following duties and functions:

* * *

2. Preparing requisitions, inventory control or purchasing.

* * *

5. All other positions which are more appropriately identified by other series.

DEFINITION. STOCK CLERK: This is responsible manual and clerical work in a stockroom, warehouse, dock area or storage yard which involves receiving, loading and unloading, shelving, storing, filling orders, packaging and preparing materials for shipment, or issuing supplies, merchandise, foodstuffs, clothing, documents, publications, informational and instructional materials, manuals, forms, laboratory supplies, equipment, tools or other materials, and maintaining related records. Positions may pick up or deliver supplies or materials as needed to maintain an efficient operation. Positions may be responsible for a stockroom with limited quantities of stock and may replenish supplies by requisitioning from one of the State of Wisconsin's central supply operations in accordance with established procedures and conditions. Specific work assignments may be made by superiors but routine daily activities are carried out under limited supervision.

Examples of Work Performed with indication of whether such tasks are performed by Ms. Jacobson and with clarifying comment, if warranted.

- YES-1. Receive shipments of materials.
- YES-2. Load and unload shipments. **Comment:** Ms. Jacobson performs this task only if other employees are absent.
- YES-3. Examine and check incoming goods for damage or shortages.
- YES-4. Check bills of lading for accuracy.
- NO-5. File claims for short or damaged shipments.
- YES-6. Mark or code items, manually or using computerized equipment; generate price tags.
- YES-7. Receive orders by mail, phone or over the counter; if required, enter sales into cash register. **Comment:** Ms. Jacobson receives only special orders. She does not enter sales into a cash register.
- YES-8. Answer phone and assist customers.
- YES-9. Pick or gather materials to fill order or requisition; collate or arrange in sequence if necessary.
- YES-10. Pack or prepare materials for delivery or shipping via scheduled/non-scheduled courier or freight services such as UPS, Fed. Ex, Dunham Ex, Airborn Ex, etc. This

- may include packing, wrapping weighing, determining method of shipment, and affixing postage.
- YES-11. Maintain, complete and process required reports or records, such as inventory records, sales records, hazardous materials manifests, and postal or shipping charge records or UPS logs by using computerized equipment or manually. **Comment:** Ms. Jacobson performs some of these duties in performance of her inventory-related tasks.
- NO-12. Transport packages to appropriate area for pick-up or delivery.
- YES-13. Shelf or store goods received, using proper storage methods which consider factors such as shelf life, stock rotation, temperature control, hazardous nature, etc.
- NO-14. Issue or distribute non-expendable tools, equipment or supplies; maintain distribution records.
- YES-15. Reshelve returned merchandise or supplies. **Comment:** Ms. Jacobson oversees work of students who reshelve returned merchandise.
- YES-16. Conduct physical inventories.
- YES-17. Assist in the initiation or preparation of requisitions to replenish stock.
- NO-18. Operate pallet jack, forklifts or other equipment; drive truck.
- NO-19. Perform preventative maintenance on equipment or arrange for services.
- YES-20. Maintain security of facility.
- NO-21. Dispose of hazardous waste material, using safe and proper procedures.
- YES-22. Sort, pick up or deliver supplies and materials. **Comment:** Ms. Jacobson sorts supplies when creating art supply kits customized for classes per the professor's instructions.
- YES-23. May assist with training and directing other staff, student or inmate help.
- YES-24. May perform housekeeping or janitorial tasks to maintain cleanliness of supply area or stock room. **Comment:** Ms. Jacobson directs students in maintaining orderly floor.

The new class specs for Storekeeper (Exh. R-2) include the following relevant text.

Purpose and Use of this Class Spec: This class spec is . . . for making classification decisions relative to . . . positions which direct the operations of a stores or supplies unit. . . .

Inclusions: This classification encompasses positions which perform a variety of duties associated with directing a stores, supplies or warehouse facility, including record keeping,

requisitioning, inventory control and distribution of a variety of materials and supplies.

Exclusions: Excluded from this class spec are positions responsible for spending a majority (i.e., more than 50%) of their work time in the performance of the following duties and functions:

1. Purchasing.
2. Receiving, stocking, shelving, loading & unloading materials & goods.

* * *

DEFINITION, STOREKEEPER: Positions in this classification are responsible for overseeing the daily activities of a stores or supplies operation including determining and directing storage plans and procedures, distribution of goods, inventory management, replenishing stock, record keeping, equipment maintenance, security, and physical maintenance of assigned areas. Some positions may be responsible for maintenance and upkeep of assigned delivery vehicles. Positions may be responsible for a specialized unit within a major supply operation such as the UW-State Consolidated Stores Warehouse or the State of Wisconsin's central supply facility at Waupun; a central stores operation at an institution or campus such as Ethan Allen School or UW-River Falls; a specialized supplies unit such as the engineering and maintenance operations of the Veterans' Home at King or the food supplies operation at Northern Wisconsin Center; or a statewide departmental supplies facility such as the central warehouse of the Department of Transportation in Madison or the Wisconsin Army National Guard warehouse at Camp Williams operated by the Department of Military Affairs; or a comparable operation as characterized by volume of turnover, nature and variety of items stocked and assigned responsibilities. (Emphasis added.) Positions may perform work activities as described in the stock clerk specifications, but this would not comprise a majority of the position's assignments. Work is subject to review by administrative superiors for conformance to rules and regulations governing the requisitioning, purchasing, issuing or shipping of supplies and materials.

Examples of Work Performed with indication of whether such tasks are performed by Ms. Jacobson and with clarifying comment, if warranted.

- NO-1. Estimate stock needs and order replacements. **Comment:** Ms. Jacobson estimates stock needs but she does not determine stock levels and she does not have final authority for ordering replacements. The replacement ordering she performs is limited and subject to the parameters set by her supervisor.

- NO-2. Establish and maintain stock levels based on use rate and shelf life.
- YES-3. Direct and conduct periodic, special, or perpetual inventory of stock manually or by use of computerized equipment.
- NO-4. Update price lists. **Comment:** This task is meant to refer to more than simply transposing prices established by her supervisor or made within parameters established by her supervisor. It is meant to include the level of responsibility held by her supervisor.
- NO-5. Maintain or direct the maintenance of reports and records, including but not limited to use of stock handling equipment, adjustments of inventory counts and stock records, spoilage or damage to stock, location changes, refusal of materials or supplies, sales records of items sold in canteen or bookstore, or quarterly sales tax reports.
- YES-6. Research and evaluate new products and recommend for purchase or sale. **Comment:** Only on occasion does the supervisor ask Ms. Jacobson for an opinion regarding potential purchase of a new product.
- NO-7. Monitor inmate spending, in accordance with established rules and regulations.
- NO-8. Enter price changes into computer for bar code pricing system.
- YES-9. Determine storage plans and procedures, including location, methods of storage and stock identification and locator systems, taking into consideration factors such as temperature, humidity, height and weight limits, turnover, shelf life, security or safety requirements, hazardous nature, space allocations, type of inventory system or other special requirements. **Comment:** Ms. Jacobson does some of these tasks to a limited extent as part of her membership on problem-solving committees.
- YES-10. Ensure delivery of goods or supplies; assure availability of delivery vehicle and qualified operator. **Comment:** Ms. Jacobson performs this task on a limited basis for special orders and when she sees an item sitting around which needs to be delivered.
- NO-11. Determine delivery schedules; coordinate movement of supplies with other state agencies.
- YES-12. Maintain security procedures in identified areas. **Comment:** Ms. Jacobson performs this task under established guidelines.
- NO-13. Plan and direct the activities of other staff, including permanent staff, student help, inmate help or limited term employes in receiving, loading and unloading, shelving, and distribution activities.
- YES-14. Provide assistance and advice to customers relative to availability or suitability of items.
- NO-15. Screen surplus property to determine usability. **Comment:** Determination of surplus property is a function resting with her supervisor.

- NO-16. Purchase items directly from local vendors within the state purchasing guidelines and procedures. **Comment:** Ms. Jacobson's supervisor purchases within state guidelines. Ms. Jacobson performs purchases on a limited basis and only within supervisor's guidelines.
- NO-17. Conduct or monitor preventative maintenance on all assigned vehicles, forklifts, pallet trucks or other material handling equipment used.
- NO-18. Arrange for vehicle repairs and/or services with commercial sources or the department's fleet section.
- NO-19. May approve invoices for payment. **Comment:** Ms. Jacobson signs the package slip to indicate the materials listed on the invoice were received which is a pre-requisite for payment, but this is not the same as having the authority to approve invoices for payment.
- NO-20. May contact vendors in ordering, soliciting prices for competitive bidding and expediting deliveries of supplies. **Comment:** On a limited basis and within parameters established by her supervisor, Ms. Jacobson may contact vendors for ordering, but she does not perform the other two listed tasks.
- NO-21. May price items on work orders or requisitions or prepare invoices for internal charge back.
- YES-22. May write specifications for materials or supplies to be purchased. **Comment:** Ms. Jacobson performs this task only in relation to art supplies when a special paint is needed for painting a picture. This occurs infrequently.

DER estimates of Stock Clerk responsibilities in Ms. Jacobson's PD are shown below using the organization of her PD.

<u>Task</u>	<u>% Stock Clerk</u>	<u>TOTAL</u>
A11	20%	20%
A6	10%	10%
A2	5%	5%
A3	5%	5%
A7	5%	5%
A-rest	8%	10%
B2	15%	15%
B5	15%	15%
B1	5%	5%
B-rest	8%	10%
	95%	100%

The Commission feels the 95% estimate shown above is somewhat high. However, the record clearly shows that the majority of the duties of Ms. Jacobson's position are of the nature included in the Stock Clerk class specs.

Accordingly, her position fits within the exclusions recited in the class specs for Storekeeper.

Ms. Jacobson's first-line supervisor, Ms. Kathy Cuadra, and the second-line supervisor, Joe Bloom, felt Ms. Jacobson's position should be classified at the Storekeeper level because she performs her work independently. The degree of independence, however, is expected at the Stock Clerk level, as noted in the last sentence of the Stock Clerk definition, as follows: "Specific work assignments may be made by superior but routine daily activities are carried out under limited supervision." The credible record evidence overwhelmingly established that the majority of Ms. Jacobson's duties were of the type expected of Stock Clerks and while such duties were performed independently, the establishment of parameters and final responsibility rested with Ms. Cuadra and Mr. Bloom.

ORDER

That respondent's reallocation of appellant's position to Stock Clerk be affirmed and this appeal be dismissed.

Dated _____, 1995.

STATE PERSONNEL COMMISSION

LAURIE R. McCALLUM, Chairperson

DONALD R. MURPHY, Commissioner

JUDY M. ROGERS, Commissioner

Parties:

Geraldine Jacobson
910 Taft Avenue
Oshkosh, WI 54901

Jon E. Litscher
Secretary, DER
137 East Wilson Street
P.O. Box 7855
Madison, WI 53707-7855