

**LISA M. LATHROP,**  
*Appellant,*

v.

**Secretary, DEPARTMENT OF  
EMPLOYMENT RELATIONS,**  
*Respondent.*

FINAL  
DECISION  
AND ORDER

Case No. 97-0004-PC

This case involves an appeal pursuant to §230.44(1)(b), Stats., of respondent's decision to deny appellant's request to reclassify her position from Program Assistant 4 (PA 4) to Administrative Assistant 3 (AA 3).

The Program Assistant 4 class specification includes the following definition:

PROGRAM ASSISTANT 4

This is paraprofessional staff support work of considerable difficulty as an assistant to the head of a major program function or organization activity. Position allocated to this class are coordinative and administrative in nature. Positions typically exercise a significant degree of independence and latitude for decision-making and may also function as leadworkers. Positions at this level are differentiated from lower-level Program Assistants on the basis of the size and scope of the program involved, the independence of action, degree of involvement and impact of decisions and judgment required by the position. Work is performed under direction.

PROGRAM ASSISTANT 4 - WORK EXAMPLES

Plans, assigns and guides the activities of a unit engaged in current projects or programs.

Researches and produces, as recommended by federal regulations and through the direction of an immediate supervisor, necessary data and information to prepare grant applications based on federal, state and local funding regulations.

Interprets rules, regulations, policies and procedures for faculty, other employers and the public.

Prepares various informational, factual and statistical reports.

Assists in the development and revision of policies, laws, rules, and procedures affecting the entire program or operation.

Coordinates units within the department, between departments, or with the general public, in an informative capacity for a variety of complex matters.

Conducts special projects; analyzes, assembles or obtains information.

Prepares equipment and material specifications, receives bids and authorizes the purchase of an operating department's equipment, material and supplies.

Analyzes, interprets and prepares various reports.

Administers and scores admission and placement tests; administers nationally scheduled examination; confers with applicants regarding test interpretations.

The Administrative Assistant 3 class specifications provide the following definition for such positions:

### ADMINISTRATIVE ASSISTANT 3

#### Characteristic Work of the Class

##### Definition:

Under general direction to do administrative work of more than ordinary difficulty and responsibility requiring the exercise of a considerable amount of individual initiative and independent judgment in directing the business management of a division engaged in a comprehensive non-professional program or activity; and to perform related work as required.

##### Examples of Work Performed:

Supervises record and account keeping; approves disbursements; maintains budget records.

Interviews, appoints and assigns personnel.

Acts as liaison officer between departments, employees, and the director.

Develops and installs operating procedures and makes recommendations concerning policies, rules and proposed legislation.

Supervises special surveys and studies; drafts orders; reviews and analyzes reports of assistants or field staff.

Develops training programs; interprets department policies and regulation; keeps director and assistants advised of legislation, legal opinions, court decisions and precedence.

Conducts hearings; occasionally acts as technical consultant in a specialized field.

Keeps records and makes reports.

Appellant is an employe of the Wisconsin Conservation Corps (WCC), where she started work in October 1997 as a PA 4 with the working position title of Field Support Specialist. The WCC consists of three units, headed by an Executive Director, Randall Radke, over which sits a seven citizen member board. The WCC Board establishes the policy and guidelines for WCC.

Appellant works in a unit with another PA 4, Scott Kading, and Personnel Coordinator, Jeff Veum, an AA 4, who functions as team leader. Executive Director Radke is appellant's first line supervisor.

Appellant's position description signed by her on November 17, 1994, is as follows:

Time %      Goals and Worker Activities

65%    A.    Employment and Supervision of all WCC Corps Enrollees:

A1. Assist in the overall recruitment, selection, and retention activities for all WCC corps Enrollees statewide. This includes; Corps members, Crew Leaders, Regional Crew Leaders, Technical Crew Leaders, and Mobile Crew Leaders.

A2. Respond to Crew Leader recommendations for Corps members recruitment, selection, and retention actions in a timely manner.

A3. Respond to Regional Crew leader recommendations for Crew Leader recruitment, selection, and retention actions by assisting the Executive Director, the Personnel Coordinator, and the Projects Coordinator.

A4. Respond to Regional Crew leader recruitment selection, and retention actions under the personnel Coordinators direction.

A5. Provide information, materials, and crew support requests to all Crew Leaders and Sponsors in a timely fashion. Must consult with the Personnel Coordinator on any complicated or difficult situation prior to issuing a response.

A6. Consult, advise, and direct Crew Leaders regarding Corps Members discipline actions and proper supervisory techniques consistent with the WCC policies and procedures. Must respond in a timely manner and consistently apply fair discipline actions and supervisory techniques. All unusual and/or extraordinary discipline requests will be made in consultation with the Personnel Coordinator.

A7. Consult, advise and direct Regional Crew Leaders regarding Crew Leaders discipline actions and proper supervisory techniques consistent with WCC policies and procedures. Must respond in a timely manner and consistently apply fair disciplinary actions. All unusual and/or extraordinary Crew Leader disciplinary requests will be referred to the Personnel Coordinator.

A8. Consult, advise, and gather information on any and all personnel grievance activities as requested by the Personnel Coordinator.

A9. Assist in planning, implementation and direction of all Crew Leader training workshops statewide.

A10. Direct and assist Regional Crew Leaders in the planning and administration of all Assistant Crew Leader training workshops statewide.

A11. Assist in the development, implementation, and monitoring of a comprehensive corps member evaluation system.

A12. Assist the Personnel Coordinator in the development, implementation, and monitoring of a comprehensive crew leader evaluation system.

A13. Assist the Personnel Coordinator in the development, implementation, and monitoring of a comprehensive Regional Crew Leader evaluation system.

A14. Prepare employment references/recommendations for all corps enrollees as requested.

A15. Assist in all job placement and employment preparation activities for all corps enrollees.

A16. Develop, implement, and administer all facets of the corps' enrollees service completion bonus system, including monitoring crew leave reports. Assist in the payment and distribution of the service completion bonus or tuition voucher.

A17. Assist with the development, implementation, and administration of any/all corps enrollee surveys, reports, and statistical information.

A18. Develop, implement, and monitor any/all corps enrollee information regarding AA/EEO practices statewide and ensure compliance.

15% B. Project Development and Implementation:

B1. Assist staff in the reviewing and scoring process for all project applications as assigned by the Personnel Coordinator.

B2. Research and prepare personnel related information or project sponsor applicants for the projects coordination three weeks prior to the WCC Board Meetings. Including unemployment statistics, economics distress scores, vacancy rates, etc...

B3. Assist in the development and implementation of a comprehensive WCC library system.

20% C. Other Corps Enrollees Support:

C1. Fulfill all duties of the Personnel Coordinator if absent and consult with the Executive Director on any major decision-making activity prior to taking action.

C2. If necessary, assume the duties and responsibilities of a Regional Crew Leader.

C3. If necessary, assume the duties and responsibilities of a Crew Leader.

C4. Actively participate in all project site visit rotations according to the projects staff timetable to ensure the satisfactory progression of all projects.

Appellant did not supervise any subordinate employees in permanent positions.

The position description appellant submitted with her request for reclassification, signed by Radke on December 11, 1995, showed identical goals and time percentages as her 1994 position description. However, Goal C, 20%, Other Corps Enrollee Support, included the following new activities:

- C5. Provide training to corps enrollees in conjunction with other members of the personnel team.
- C6. Attend applicable training sessions and seminars in order to stay up to date on trends and changes in the legal system.
- C7. Actively participate in regularly scheduled staff meetings.
- C8. Assume other responsibilities or duties as assigned.

Appellant presented two witnesses, Jeff Veum and Scott Kading. Both witnesses testified that appellant's work activities fit the AA 3 definition<sup>1</sup>. Veum testified that he initiated a change in the Field Support Specialist (FSS) position after becoming Personnel Coordinator in 1994. Work activities were more defined, delineation was made between permanent and project FFS positions, and he delegated more authority to the Lathrop and Kading personnel support positions, making them more autonomous. However, Veum testified that he is responsible for personnel team decisions. Also, Veum's position description (Respondent's Exhibit No. 13) shows that he is responsible for developing, administering and implementing uniform standards for crew leaders, training workshops, and evaluation systems for crew leaders and corps members, work activities he and Kading attribute to Lathrop.

The appellant did not testify.

The evidence in this record does not support a conclusion that the AA 3 classification is the appropriate classification for appellant's position. While Veum and Kading testified that appellant performed many of the activities listed as AA 3 work examples, the evidence establishes that appellant's work activities were performed within a team concept headed by Veum, who had ultimate responsibility for such activities. Also, the evidence establishes that a WCC unit headed by Operations

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<sup>1</sup> Kading requested reclassification of his position to AA 3 with Lathrop, and they used the same position description. Like Lathrop, his request was denied and he appealed to the Commission. His appeal was dismissed when he failed to timely file the required filing fee.

Manager Brenda William, an AA 4 Supervisor, handled business management functions for the agency, including budget and finances. In addition, WCC was administratively attached to the Department of Administration and its payroll and finance functions were performed there. Clearly this evidence does not support a conclusion that appellant was performing these activities at the AA 3 level. Appellant does not supervise and, as stated before, works within a team concept headed by Veum.

Appellant argues that she did perform the duties testified to by Veum and Kading, but such activities are not referenced in the Position Description (PD) submitted with appellant's reclass request. Regarding this point, the reclass request letter submitted by appellant and Kading, providing reasons for the reclassification, simply states, "Both position have been performing all the duties that are found in the general AA-3 position description (item #3) for over the past year." Therefore, in consideration of the evidence presented, testimony about new duties performed by appellant, not otherwise described in appellant's 1995 PD, can only be ascribed to Goal C8, which entitled, "Assume other responsibilities or duties as assigned." This represents a few tenths over two percent of appellant's total duties.

Section ER 3.01(3) Wis. Adm. Code, requires a logical and gradual change in duties, significant enough in level and nature of duties to warrant a higher classification. For the reasons stated and based on the record, the evidence presented is not sufficient to conclude the changes in appellant's position were sufficiently significant in level and nature to warrant the requested classification. Even considering the changes, more than 50 percent of appellant's job is spent performing PA 4 duties.

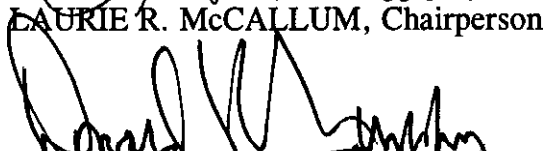
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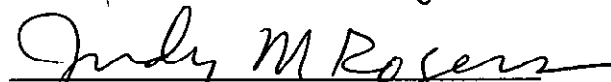
Respondent's action denying reclassification of appellant's position to the Administrative Assistant 3 level is affirmed, and this appeal is dismissed.

Dated: March 11, 1998. STATE PERSONNEL COMMISSION

DRM:rjb  
970004Adec2

  
LAURIE R. McCALLUM, Chairperson

  
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 (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)