BARBARA TOWNE,

GRIEVANT,

v. DOCKET NO. 93-HHR-306

DEPARTMENT OF HEALTH AND HUMAN RESOURCES/
HUNTINGTON STATE HOSPITAL and DEPARTMENT
OF ADMINISTRATION/DIVISION OF PERSONNEL,

RESPONDENT.

D E C I S I O N

Barbara Towne, Grievant, is employed by Huntington State Hospital, Respondent. Grievant alleges she was misclassified as an Office Assistant I (OA I) during reclassification by the Division of Personnel (DOP) in December of 1992. Grievant contends she should have been classified as an Office Assistant II (OA II). A Level III hearing was held concerning this matter on June 11, 1993, and relief was denied. Grievant appealed to Level IV, and on April 22, 1994, a Level IV hearing was conducted. The case became mature for decision on that date.

Grievant originally sought relief in the form of reclassification to the position of Office Assistant III. However, Grievant decided after the Level III hearing that an OA II position was more appropriate for her assigned duties. With no objectionsfrom either Respondent, Grievant changed her request for relief at the Level IV hearing.

Background

The facts of this case are not in dispute. The testimony of Mr. David Whitaker, Grievant's former supervisor in the Environmental Services Department, Ms. Ginny Fitzwater for the DOP, and the Grievant provided the following information relevant to resolution of this grievance.

Grievant has been employed by Respondent Huntington State Hospital for thirteen years. In October, 1992, she was transferred to the Environmental Services Department of the hospital, the

department in charge of laundry, maintenance, grounds, and housekeeping. The focus of Grievant's job is to coordinate preventive maintenance of the hospital's systems and equipment in order to maintain accreditation and provide a safe and comfortable environment.

She received a reclassification notice from DOP in December, 1992, classifying her as an OA I. Grievant contends she should be awarded the classification of OA II on the basis she essentially performs those functions, rather than those of an OA I. DOP argues Grievant should be classified as an OA I.

Classification Specifications at Issue

The relevant portions of the classification specifications for the OA I and OA II positions at issue in this case are reproduced as follows:

OFFICE ASSISTANT I

Nature of Work

Under close supervision, performs entry level work in a variety of routine clerical tasks within prescribed procedures and guidelines. Performs related work as required.

Distinguishing Characteristics

Performs routine clerical tasks as a predominant portion of the job. Tasks may include sorting and filing documents, typing routine forms and labels, sorting and distributing mail. May enter data using a video display terminal and make inquiries into the system; data work is limited to a few simple applications.

At this level, the predominant tasks are of a routine nature with well-structured directives for completing the work. Work is learned through repetition and requires ability to learn the steps in the series of related tasks, which are typically a part of a broader work function. Work is reviewed for completeness and accuracy or provides an inherent system of checks. Contacts are typically informational; position is limited in authority for independent action.

Examples of Work

Sorts and files documents numerically, alphabetically or according to other predetermined classification criteria; pulls material from files upon request.

Types routine correspondence, forms, and labels.

Operates office equipment such as adding machines, electrical calculating or copying machine or other machines requiring no special previous training.

Answers telephone; takes messages; routes calls; answers general information questions.

Receives, sorts and distributes incoming and outgoing mail and performs messenger work.

Inventories, stocks and distributes office supplies.

Counts, collates, codes, sorts, staples and inserts forms in envelopes.

Posts information to log or ledger for record-keeping purposes.

Collects, receipts, counts and deposits money.

May record and maintain time/attendance records for unit or section.

May enter data into a video display terminal; may make inquiries into the system; may run a mailing list.

May microfilm documents for record maintenance.

OFFICE ASSISTANT II

Nature of Work

Under general supervision, performs full-performance level work in multiple-step clerical tasks calling for interpretation and application of office procedures, rules and regulations. Performs related work as required.

Distinguishing Characteristics

Performs tasks requiring interpretations and adaptation of office procedures as the predominant portion of the job. Tasks may include posting information to logs or ledgers, and checking for completeness, typing a variety of documents, and calculating benefits. May use a standard set of commands, screens, or menus to enter, access and update or manipulate data.

At this level, the predominant tasks require the understanding of the broader scope of the work function, and requires an ability to apply job knowledge or a specific skill to a variety of related tasks requiring multiple steps or decisions. Day-to-day tasks are routine, but initiative and established procedures are used to solve unusual problems. The steps of each task allow the employee to

operate with a latitude of independence. Work is reviewed by the supervisor in progress, randomly or upon completion. Contacts are usually informational and intergovernmental.

Examples of Work

Posts information such as payroll, materials used or equipment rental to a log or ledger; may be required to check for completeness; performs basic arithmetic calculations (addition, subtraction, division or multiplication); corrects errors if the answer is readily available or easily determined.

Maintains, processes, sorts and files documents numerically, alphabetically, or according to other predetermined classification criteria; reviews files for data and collects information or statistics such as materials used or attendance information.

Answers telephone, screens calls, takes messages and complaints; gives general information to callers when possible, and specific information whenever possible.

Receives, sorts and distributes incoming and outgoing mail.

Operates office equipment such as adding machine, calculator, copying machine or other machines requiring no special previous training.

Types a variety of documents from verbal instruction, written or voice recorded dictation.

Collects, receipts, counts and deposits money.

Calculates benefits, etc., using basic multiplication, division and percentages.

Posts records of transactions, attendance, etc., and writes reports.

May compile records and reports for a supervisor.

May operate a video display terminal using a set of standard commands, screens, menus and help instructions to enter, access and update or manipulate data in the performance of a variety of clerical duties; may run reports from the database.

Discussion

In order for Grievant to prevail upon a claim of misclassification, she must prove by a preponderance of the evidence that her duties for the relevant period more closely matched another cited Personnel classification specification than the one to which she is currently assigned. See generally, Hayes v. W. Va. Dept. of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989). Personnel specifications are to be read in "pyramid fashion," i.e., top to bottom, with the different sections to be considered as going from the more general/more critical to the more specific/less critical, Captain v. W. Va. Div. of Health, Docket No. 90-H-471 (Apr. 4, 1991). For these purposes, the "Nature of Work" section of a classification specification is its most critical section. Atchison v. W. Va. Div. of Health, Docket No. 90-H-444 (Apr. 22, 1991); See generally, Dollison v. W. Va. Dept. of Employment Security, Docket No. 89-ES-101 (Nov. 3, 1989). The key to the analysis is to ascertain

whether the Grievant's current classification constitutes the "best fit" for her requiredduties. Propst v. W. Va. Dept. of Health and Human Resources/W. Va. Div. of Personnel, Docket No. 93-HHR-371 (Dec. 3, 1993); Simmons v. W. Va. Dept. of HHR/Div. of Personnel, Docket No. 90-H-433 (Mar. 28, 1991). Finally, the predominant duties of the position in question are class-controlling. Broaddus v. W. Va. Div. of Human Services, Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990).

Both Ms. Towne and her supervisor testified she worked under general supervision and performed "full-performance level work." The majority of her day is spent in multi-step clerical tasks which require Grievant to apply office procedures, rules, and regulations. For example, when a new piece of equipment is received by the hospital, the Grievant inventories it, writes general information about the equipment on multiple lists and ledgers, and places it on a routine preventive maintenance schedule. During the "life-time" of the equipment Grievant tracks its placement, checks warranties, coordinates routine maintenance with the engineers, and routes emergency maintenance to the proper person following pre-set guidelines. Grievant does not ask her supervisor about any of these tasks and has the authority to act in emergency situations.

In examining the "Distinguishing Characteristics" section of the two job descriptions, it is clear the OA II is the "best fit." The Grievant spends much of her time posting information to logs and ledgers, she types a variety of documents, and calculates the time benefits for 67 people. The Grievant's job requires her tofill out multiple forms and she has changed and improved many of these forms.

Grievant also decides which work orders are completed in which order. Work orders are requests by a department in the hospital for maintenance work to be performed on a piece of equipment in that department. Some work orders may be more time-sensitive than others, and grievant gives those preference accordingly. Here, Grievant demonstrates a substantial degree of independence, as stated in the Distinguishing Characteristics section of the OA II position.

Grievant participates in and prepares reports for Department Quality Assurance Committee and Department Safety meetings. Grievant maintains the files required by JACHO. (See footnote 1) This information must be precisely maintained or the hospital can lose its Medicare/Medicaid accreditation. Grievant gathers statistics and composes monthly reports for the Environmental Services Department in the areas of Quality Assurance, Safety, and Risk Management. This is clearly described under the Examples of Work section of the OA II position as "May compile records and reports for a supervisor".

Grievant calculates benefits when she calculates the work hours, vacation, and sick leave for sixty-seven employees, and monitors justification for their overtime. This activity is described in the Examples of Work section of the OA II position as "Calculates benefits, etc." Additionally, the Grievant performsmost of the other tasks identified under the OA II "Examples of Work."

Another critical piece of evidence is testimony demonstrating this position was previously classified as an OA II position by DOP. Grievant testified there are only minor differences between the job she performs and the job performed by Ms. Heaberlin, the previous employee. Testimony showed Ms. Heaberlin performed only one additional task, that of watering plants in the greenhouse. This task took about one hour per week, and Ms. Heaberlin only performed it for a few weeks. Additionally, Grievant functions as a relief switchboard operator and Ms. Heaberlin did not. No testimony was given by DOP that their prior classification of the position was incorrect.

The Division of Personnel's interpretation of the classification specifications at issue should be given great weight unless clearly erroneous. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W. Va. 1993). DOP's main contention is that the Grievant performs "routine clerical tasks" under close supervision as stated in the Nature of Work section of the OA I classification specification. Further, DOP contends Grievant does not interpret and apply office procedures and rules and regulations as described in the OA II job description. DOP argues the Grievant follows "well-structured directives" in completing her work. Next, DOP contends Grievant's contacts associated with her job are only with the Environmental Services Department at the hospital, and notintergovernmental, as stated in the Distinguishing Characteristics section of the OA II job description.

The evidence of record, shows DOP's interpretations of Grievant's position are clearly erroneous. Grievant applies rules and regulations in calculating benefits, monitoring overtime, and overseeing the preventive maintenance needs of the hospital's equipment. Grievant has contacts with vendors, asbestos sampling companies, and inventory offices in Charleston as part of her duties. Grievant has shown that her current supervisor, Mrs. Selbee, allows Grievant to perform her duties without close supervision.

Grievant performs full-performance level work in multiple-step clerical tasks calling for the interpretation and application of office procedures when she monitors and tracks the preventive maintenance of hospital equipment, and assigns employees to perform them. Grievant exercises

discretion in performing these tasks and has shown this to be a considerable part of her position.

Grievant's diverse tasks allow her an understanding of the broader scope of the work functions of her department. Grievant is responsible for safety, JACHO, and State Fire Marshall surveys and reports. These reports and surveys are important enough to warrant more than an "entry level" and "routine clerical tasks" classification.

The foregoing discussion of the facts of the case and of the applicable law to those facts is hereby supplemented by the following appropriate conclusions of law.

Conclusions of Law

1. Grievant has proven by a preponderance of the evidence that she is performing the duties of an OA II based upon the principle that the predominant duties of a position are class-controlling. Broaddus v. W. Va. Div. of Human Services, Docket No. 89-DHS-606, 607, 609 (Aug. 31, 1990).

2. The Division of Personnel's interpretations of the classification specifications for the positions of OA I and OA II as they relate to Grievant's job duties and responsibilities are clearly wrong in light of the probative evidence of record. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W. Va. 1993); Wilson v. W. Va. Bureau of Employment Programs, Docket No. 93-BEP-076 (Oct. 27, 1993).

Therefore, this grievance is **GRANTED** and the Division of Personnel is hereby **ORDERED** to classify Barbara Towne as an OA II retroactive to the date of classification, when her position was misclassed as an OA I, and the Respondent is **ORDERED** to pay her damages in the form of the difference between the salary she would have received had she been classified as an OA II and the salary she did receive while classified as an OA I, if any, less any appropriate set off, for the period in question.

Any party or the West Virginia Division of Personnel may appeal this decision to the "circuit court of the county in which the grievance occurred," and such appeal must be filed within thirty (30) days of receipt of this decision. W. Va. Code §29-6A-7. Neither the West Virginia Education and State Employees Grievance Board nor any of its Administrative Law Judges is a party to such appeal, and should not be so named. Any appealing party must advise this office of the intent to appeal and provide the civil action number so that the record can be prepared and transmitted to the appropriate court.

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JANIS I. REYNOLDS

Administrative Law Judge

Dated: August 26, 1994

Footnote: 1JACHO is the joint accrediting commission for hospitals.