LOIS A. VIARS, .

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Grievant, .

.

v. . Docket No. 94-HHR-512

.

WEST VIRGINIA DEPARTMENT OF .

HEALTH AND HUMAN RESOURCES, .

HUNTINGTON STATE HOSPITAL AND .

DEPARTMENT OF ADMINISTRATION/ .

DIVISION OF PERSONNEL, .

.

Respondents. .

D E C I S I O N

Lois A. Viars (Grievant), employed by Respondent Department of Health and Human Resources (DHHR) at Huntington State Hospital (HSH), challenges her classification as a "Secretary II" by Respondent Division of Personnel (DOP). Grievant contends her proper classification should be "Administrative Secretary." This grievance was initiated on February 1, 1994. Grievant's immediate supervisor concurred with Grievant's contention but was unable to grant the relief requested at Level I. Subsequently, the grievance was waived to Level III where a hearing was conducted on May 6, 1994. Thereafter, Garrett E. Moran, Deputy Commissioner, issued an undated decision denying the grievance at Level III. Grievantappealed to Level IV on August 26, 1994 (See footnote 1) and a hearing was conducted in the Board's Charleston office on October 14, 1994. As all parties waived written post-hearing submissions, this matter became mature for decision at the conclusion of that hearing.

Background

The facts in this case are substantially uncontroverted. Grievant serves as the secretary to the Clinical Director at Huntington State Hospital (HSH), Dr. Roy Edwards. Dr. Edwards is primarily responsible for medical treatment of patients at HSH. (See W. Va. Code § 27-1-7(b) which prescribes the general responsibility of the clinical director in a state-operated treatment facility.) One of Grievant's major duties is preparing the on-call physicians' schedule to provide appropriate medical coverage on a 24-hour, 365-day basis. L III HT at 4. She schedules and makes arrangements for various meetings. L III HT at 4. Grievant also prepares the minutes of the Medical Executive Committee and other similar meetings. R Ex 1. Much of the incoming and outgoing correspondence which Grievant handles involves matters of a confidential nature. L III HT at 5. In the process of screening callers and visitors, Grievant exercises independent discretion and judgment, sometimes referring such inquiries to either Dr. Mildred Bateman, Associate Clinical Director, or Lou Hammond, Assistant to the Clinical Director, as appropriate.

Grievant also presented evidence regarding the duties performed by Linda Adkins, Secretary to the Administrator of HSH. Prior to reclassification, both Grievant and Ms. Adkins held the classification of Steno Secretary/Secretary III, then the highest secretarial classification available. Under DOP's statewide reclassification project, Ms. Adkins was reclassified as an Administrative Secretary (following an appeal of her initial classification as a Secretary II) while Grievant was reclassified as a Secretary II. Clearly, Grievant and Ms. Adkins perform many similar duties to include typing, making appointments, scheduling meeting facilities, answering phones, screening visitors, organizing and maintaining files, responding to routine correspondence, delegating work, maintaining policy and procedure manuals and scheduling annual performance evaluations. See G Ex 1.

Dr. Mildred Bateman, Associate Clinical Director at HSH, serves as Dr. Edwards' primary assistant for supervising clinical matters. In addition, she serves as the Acting Clinical Director in Dr. Edwards' absence. On occasion, Dr. Bateman has also worked as the Acting Administrator at HSH. Dr. Bateman testified that she was very familiar with Grievant's work, as well as Ms. Adkins' work, and believed Grievant's duties are similar to Ms. Adkins in terms of difficulty and complexity. Further, she considers Grievant's and Ms. Adkins' positions to be "equivalent."

Dr. Roy Edwards, Grievant's immediate supervisor, testified regarding the importance of Grievant's responsibility for maintaining the on-call physicians' schedule for three separate clinicalfunctions on the grounds at HSH. Grievant's duties include making impromptu revisions to comply with regulations controlling hospital accreditation, while maintaining compliance with certain fiscal restrictions on overtime, etc. Grievant is also responsible for screening bills for physicians' services, laboratory work and other medical services performed off HSH grounds for compliance with certain requirements. Having served as Acting Administrator at HSH, Dr. Edwards noted that he found Ms. Adkins' and Grievant's duties to be very similar, except Grievant was more involved with matters of a confidential nature.

Dr. Edwards also emphasized Grievant's poise, dignity, awareness and dedication to confidentiality. However, personal attributes of the incumbent employee are not relevant in determining the proper classification of a particular position. See generally, Div. of Personnel Administrative Rules, Series I (Amended), § 4.01, et seq. (1993).

Ms. Virginia Fitzwater, a Senior Personnel Specialist in DOP's Classification and Compensation Section, testified concerning the classification process. Ms. Fitzwater explained that, in addition to examining the duties and responsibilities of a position, DOP considers the reporting relationship in the organization hierarchy as bearing on the level of responsibility of a position. In the instant matter, it is noted that the Clinical Director, Dr. Edwards, reports to the Administrator at HSH, Desmond Byrne. The fact that Ms. Adkins reports directly to Mr. Byrne, whose scope of responsibility extends throughout HSH, impacts on her classification as an Administrative Secretary. Ms. Fitzwater opined that, based upon her supervisor's position as Administrator, Ms. Adkins had a higher level of accountability and responsibility than Grievant.

DOP also presented evidence that the secretary to the Clinical Director at Sharpe Hospital in Weston, whose duties are similar to Grievant, is currently classified as a Secretary I. However, Ms. Fitzwater indicated that, based upon the evidence produced through Level IV, Grievant was properly classified as a Secretary II.

Classification Specifications at Issue

The relevant portions of the classification specifications for the Administrative Secretary

and Secretary II positions at issue in this case are reproduced herein as follows:

ADMINISTRATIVE SECRETARY

Nature of Work

Under general direction, performs advanced level work by assuming responsibility for adjunctive administrative duties under the guidance of an administrator. Applies in-depth knowledge of program areas, the mission of the division, and the administrator's jurisdiction, policies and views. Provides support services to administrator by supplying specific information, composing reports and correspondence, and taking initiative to recommend actions, or by taking action in modifying and/or improving unit procedures, policies, rules and regulations. Depending on size of organizational unit, may offer some clerical support to administrative superior, often in matters which must remain confidential. Typically performs administrative support for an agency/division administrator. Performs related work as required.

Distinguishing Characteristics

The paraprofessional work at this level is generally confidential and requires a working knowledge of program areas within the division or organizational unit to which assigned. Administrative support duties are predominant; clerical/secretarial duties typically comprise less than 20% of work time.

Examples of Work

Attends meetings for supervisor to take notes and offer input vis-a-vis supervisor's views, or is briefed on meetings after the fact in order to assist the implementation of new procedures.

Studies and analyzes operational procedures; prepares reports of findings and recommendations for implementation of new procedures or the modification of existing procedures.

Collects and prepares operating reports such as time and attendance records, terminations, new hires, transfers, budget expenditures, and statistical inquiries.

Receives telephone calls, personal callers and incoming mail.

Makes arrangements for conferences, including date, time, location and space.

Plans, schedules, assigns, and reviews the work of other employees.

Oversees office services such as the completion of maintenance reports, ordering of supplies, filing.

Supplies administrator with specific detailed information for completion of reports, speeches, etc.

Types a variety of documents, often confidential in nature.

May conduct initial job interviews and recommend candidates for employment.

May monitor particular programs, draft reports on programs status, assist in applications for grants or outside monies, and draft correspondence for division heads concerning the program areas.

May delegate work to other sections.

May write news releases and otherwise interact with the public on behalf of or in lieu of the administrator.

SECRETARY II

Nature of Work

Under general supervision, at the full-performance level, provides clerical and administrative relief, exercising discretion and independent judgment. May sign supervisor's name to routine memorandums, correspondence and forms. Attends meeting in the supervisor's absence or on the supervisor's behalf. Necessity for dictation, familiarity with word processor and other special requirements vary depending upon supervisor's preference.

Distinguishing Characteristics

Work at this level is characterized by the level of administrative support preformed. Typically, duties such as researching a variety of sources (library, division archives, past-practice documents, outside private sources, etc.), attending meetings for supervisor where interpretation of information gathered is necessary, and coordinating the activities of section, unit, etc., are characteristic of this level.

At this level, the work requires the application of specific knowledge necessary to

complete complex procedural or unusualassignments. Incumbent determines appropriate procedures from among various and variable methods, resources, and processes, or devises innovative methods to accomplish assignment. Incumbent is responsible for his/her own work, and may assign, direct, or supervise the work of others. Although some tasks are defined and self-explanatory, the incumbent works closely with supervisor to set objectives, priorities, and deadlines; may independently set goals and time frames for individual work assignments. Work is typically reviewed randomly upon completion for adherence to guidelines. Contacts at this level are frequent, typically varied and non-routine. Incumbent answers procedural or program inquiries, whenever possible, or refers. Contacts are frequently of a confidential or sensitive nature and require tact.

Examples of Work

Coordinates activities associated with the functions of the division/section/unit, planning and implementing office procedures.

Researches basic statistical work in the compilation of reports involving the activities of the division/sec tion/unit.

Responds to inquiries where considerable knowledge of unit policy, procedures, and guidelines is required.

Answers telephone, screens calls, and places outgoing calls.

Screens mail and responds to routine correspondence.

Schedules appointments and makes travel arrangements and reservations for supervisor.

Signs, as directed, supervisor's name to routine correspon dence, requisitions and other documents.

Attends meetings with or on behalf of supervisor to take notes or deliver basic information.

Takes and transcribes dictation, or transcribes from dictation equipment.

Composes form letters, routine correspondence, and factual reports requiring judgment and originality.

Gathers, requests, and/or provides factual information, requiring reference to a variety of sources.

Types, using standard typewriter or word processing equipment, reports, manuscripts, and correspondence; proofreads and corrects to finished form.

May delegate routine typing, filing and posting duties to subordinate clerical personnel.

May maintain bookkeeping records for grants, contract or state appropriated funds or related departmental accounts.

May prepare payrolls, keep sick and annual leave records, act as receptionist, and perform other clerical duties as needed.

May assign and review the work of others.

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 under 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., from 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 required duties. Simmons v. W. Va. Dept. of HHR/Div. of Personnel, Docket No. 90-H-433 (Mar. 28, 1991). The predominant duties of the position in question are class-controlling. Broaddus v. W. Va. Div. of Human Serv., Docket No. 89-DHS-606, 607, 609 (Aug. 31, 1990). Finally, Personnel's interpretation and explanation 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).

Under the foregoing legal analysis, the West Virginia Supreme Court of Appeals' holding in Blankenship presents employees challenging their current classification with a substantial obstacle to overcome in attempting to establish that they are currently misclassified. In the instant matter, Grievant's evidence falls short of demonstrating that DOP's determination that she is performing the duties of a Secretary II is "clearly wrong." Although Grievant performs many functions normally done by an Administrative Secretary, these functions do not comprise a predominant portion of her assigned duties. Thus, Grievant's performance of certain duties outside her current classification as a Secretary II does not render her misclassified. See Darby v. W. Va. Dept. of Health & Human Resources, Docket No. 93-HHR-356/357 (Jan. 18, 1994); W. Va. Div. of Personnel Administrative Rules, Series I (Amended) § 4.04(d) (1993). Moreover, DOP argued that Ms. Adkins' status as secretary to an executive at a higher level in the hospital's hierarchy than Grievant's supervisor warrants her classification as an Administrative Secretary. This rationale is consistent with the organizational structure at HSH and adequate to secure the deference afforded such DOP determinations by Blankenship.

While Grievant properly points to various tasks which she accomplishes as falling within the Administrative Secretary classification, her predominant duties are included in the Secretary II class specification, and these duties provide the controlling basis for classifying her position in that class. SeeBroaddus v. W. Va. Div. of Human Services, Docket No. 89-DHS-606, 607, 609 (Aug. 31, 1990). Thus, although Grievant established that she performs her assigned duties in an exceptional manner and has superior skills relevant to her position which allow her to make a significant contribution to the effective operation of HSH, these factors are not controlling in determining her proper classification, because positions, and not persons are classified. See generally, W. Va. Div. of Personnel Administrative Rules, Series I (Amended) § 4.01, et seq. (1993).

In addition to the foregoing discussion, the following findings of fact and conclusions of law are appropriate in this matter.

FINDINGS OF FACT

1. Grievant is employed as the secretary to the Clinical Director at Huntington State

Hospital (HSH).

2. Grievant is presently classified by the Division of Personnel as a Secretary II.

3. Grievant performs normal secretarial duties such as answering phones, processing incoming and outgoing correspondence, receiving visitors and maintaining files and records. In addition, Grievant schedules and transcribes meetings of various committees such as the Medical Executive Committee and the Patient Care Committee.

4. Grievant is also responsible for preparing and maintaining the on-call physician schedule for HSH. Additionally, Grievantreviews medical bills from outside agencies for compliance with certain requirements prior to approval by the Clinical Director.

5. Grievant's job description and the duties she performs are generally similar to the job description and duties performed by Linda Adkins, secretary to the Administrator of HSH.

6. Upon appeal to the Division of Personnel, Ms. Adkins was classified as an Administrative Secretary.

7. Grievant's immediate supervisor, the Clinical Director at HSH, reports directly to the Administrator at HSH.

CONCLUSIONS OF LAW

1. Grievant has not proven by a preponderance of the evidence that the classification of Administrative Secretary constitutes the "best fit" for the duties she performs. See Simmons v. W. Va. Dept. of Health and Human Resources, Docket No. 90-H-433 (Mar. 28, 1991).

2. Although Grievant is performing some duties that are outside her current classification as a Secretary II, this does not render her misclassified. Dooley v. W. Va. Dept. of Health and Human Resources, Docket No. 90-H-498 (Mar. 19, 1991). See Div. of Personnel Administrative Rules, Series I (Amended), §4.04(d) (1993); Broaddus v. W. Va. Div. of Human Services, Docket No. 89-DHS-606, 607, 609 (Aug. 31, 1990).

3. Personnel's interpretations of the classification specifications for the positions of Administrative Secretary and Secretary II, as they apply to the duties being performed by Grievant, are not clearly erroneous and, therefore, should beaccorded great weight. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681 (W. Va. 1993).

4. Grievant's job duties, as demonstrated by a preponderance of the evidence, best fit

within the classification specification for Secretary II.

Accordingly, the grievance is DENIED.

Any party 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.

LEWIS G. BREWER

Administrative Law Judge

Dated: December 29, 1994

Footnote: 1*The Respondent did not raise any issue in regard to the timeliness of Grievant's appeal to Level IV.*