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SAUNDRA BUSH

v.

DOCKET NO. 89-H-359

W.VA. DEPARTMENT OF HEALTH/DEPARTMENT OF PERSONNEL

DECISION

Grievant, Sandra Bush, is employed by the Department of Health (Department) at Weston State Hospital. Ms. Bush, who is presently classified as a Section Chief I, filed a level one grievance on April 10, 1989 in which she alleged that she has been misclassified since 1978.¹ She requested that she be reclassified to Supervisor I and awarded back pay. The grievant indicated that she received no responses to the grievance at levels one and two. At level three it was determined that the grievant's duties have remained unchanged from the time she was first employed, even after her reclassification from Chief Operator to Section Chief I in 1983. Based upon this finding the grievant was awarded

¹Because the grievable issue was classification-related the Department of Personnel was joined as a party at level four.

backpay at the prevailing rates for Section Chief I from April 1, 1978 through the effective date of her reclassification to Section Chief in 1983. A level four appeal was filed on July 14 and an evidentiary hearing was conducted on September 5, 1989. Proposed findings of fact and conclusions of law were received by September 22, 1989.

At the level four hearing the grievant testified that she supervises five individuals who are employed as operators. These employees man the telephone switchboard, the emergency system (fire alarm), the paging system and serve as the reception area and information center. The grievant's supervisory duties include reviewing timecards, developing a work schedule, signing leave slips, evaluating personnel, interviewing and recommending applicants for new positions. She fills in as a telephone operator in the early morning, when others are on breaks or at lunch and in cases of emergency when a substitute cannot be secured. Additionally, the grievant has received training and is responsible for programming the telephone system at the hospital. In addition to these responsibilities the grievant states that she instructs, trains and advises employees in work procedures, keeps records, instructs employees in the use of new equipment, orders supplies, makes complete and accurate operational reports to administrative supervisors, makes decisions based on laws and regulations, explains policies to subordinates and maintains a complex records and file system. The grievant argues that these duties are

consistent with the classification of Section Chief III or Supervisor II.²

The Department asserts that the ranking of positions within the Section Chief classification series is based upon an ascending level of difficulty and complexity in the work performed and the level of supervisory responsibility assumed. Section Chief III requires the supervision of complex clerical work or a field staff while Section Chief I involves routine and standardized clerical duties such as those assumed by the grievant. Barbara Butcher, a Supervisor III and the grievant's immediate supervisor, opined at level four that the grievant performs the duties of a Section Chief I in that she functions under daily supervision as the lead worker for the other operators and assumes some administrative duties. Ms. Butcher acknowledged that the grievant exercises some discretion in her daily activities but indicated the grievant's administrative responsibilities are minimal. She stated that the grievant is not required to compose correspondence or file detailed reports, does not maintain complex records and does not have the authority to hire new employees.

The job description for the position of Supervisor II states that this employee ...

²The grievance was accordingly amended at level four to consider whether the grievant should be properly classified as Section Chief III or Supervisor II.

supervises a force engaged in difficult and complex duties of a technical nature, or a field force engaged in inspection duties. The employee plans, assigns and coordinates the work of subordinates, applying and interpreting departmental policies and regulations. Incumbent uses considerable independence in planning in planning work methods and advising subordinates of change in policy and procedure. Work is reviewed by an administrative supervisor through conferences and detailed reports made by the employee.

Because the grievant does not supervise a force engaged in difficult or complex duties of a technical nature or a field force engaged in inspection duties, the position she holds does not meet the requirements of this classification.

The job description for Section Chief III states that:

[u]nder general direction, an employee in this class supervises personnel engaged in complex clerical duties or field personnel engaged in inspection work. Work is performed within the framework of departmental policies and procedures.

While the operators complete numerous and necessary tasks they cannot be characterized as complex clerical duties. None of the duties are intricate or complicated, requiring many steps or numerous skills to complete. Therefore, the position held by the grievant does not meet the standards of this classification.

The job description for the position of Section Chief I provides that:

[u]nder supervision, an employee in this class supervises a group of workers engaged in one general type of clerical function. Work is performed within the framework of established departmental policies and procedures.

The grievant supervises a group of employees engaged in one general type of clerical function (facilitating

communication) and works within the framework of established departmental procedures. The grievant also completes many, perhaps all, of the "Examples of Work Performed" stated on the job description including: assigns duties to subordinate employees; applies general policies and interprets or assists in interpreting these policies to staff and public; trains and instructs new employees and prepares written and oral reports to supervisors regarding group and individual performance. Of particular importance is that the Section Chief I "[m]ay perform essentially the same duties as other employees..." because the grievant does spend a percentage of each day in the role of operator. Because the duties and responsibilities of the grievant clearly fall within the nature and examples of work provided by this job description she is properly classified as a Section Chief I.³

In addition to the foregoing narration it is appropriate to make the following specific findings of fact and conclusions of law.

³ Along with the proposed findings and conclusions the Department renewed a motion to dismiss the grievance on the ground of laches. This motion is somewhat puzzling in light of the level three decision which granted backpay for the years 1978-83. Due to the outcome of this decision it is unnecessary to consider the motion.

Findings of Fact

1. The grievant has been employed by the Department of Health at Weston State Hospital since 1978. She was classified as an operator from 1978 through 1983 when she was reclassified as Section Chief I.

2. At level three of this grievance procedure the Department determined that the grievant had performed essentially the same duties throughout her employment and awarded her back pay at the prevailing rates for Section Chief I for the period 1978 through 1983.

3. Under the supervision of a Section Chief III, the grievant supervises workers engaged in general, clerical duties within the framework of established policies and procedures.

Conclusions of Law

1. It is incumbent upon the grievant to prove the allegations of the complaint by a preponderance of the evidence. Payne v. W.Va. Department of Energy, Docket No. ENGY-88-015 (Nov. 2, 1988).

2. The grievant has failed to prove by a preponderance of the evidence that she is improperly classified.

Accordingly, the grievance is **DENIED**.

Either party or the West Virginia Division of Personnel may appeal this decision to the Circuit Court of Lewis County 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 Hearing Examiners is a party to such appeal, and should not be so named. Please advise this office of any intent to appeal so that the record can be prepared and transmitted to the appropriate Court.

DATED November 30, 1989

Sue Keller

SUE KELLER

SENIOR HEARING EXAMINER