SUZANN RANSBOTTOM, .

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Grievant, .

.

.

v. . Docket No. 93-HHR-471

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WEST VIRGINIA DEPARTMENT OF .

HEALTH AND HUMAN RESOURCES .

at HUNTINGTON STATE HOSPITAL .

/ WEST VIRGINIA DIVISION OF .

PERSONNEL, .

.

Respondent. .

D E C I S I O N

Suzann Ransbottom (hereinafter Grievant) filed the instant complaint on January 6, 1993, claiming that she is misclassified as an Office Assistant II and requesting that she be classified as a Secretary II. Her claim was denied at the lower levels of the Grievance Procedure and her appeal was received at level four November 16, 1993. Prior to the level four hearing, Grievant changed her request for relief to state that she wished to be classified as a Secretary I. Respondent did not object to this change in relief and, pursuant to W.Va. Code §29-6A-3(k), the undersigned has assented to the change as it does not substantiallyalter the nature of the complaint. After a hearing was held on February 16, 1994, the case became mature for decision.

The relevant portions of the Division of Personnel classification specifications at issue in this case are reproduced herein as follows:

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 interpretation 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 process, 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 orstatistics 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 mathematics such as addition, subtraction, multiplication, division and percentages.

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

May compile records and reports for supervisor.

May operate a VDT 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.

Secretary I

Nature of Work

Under general supervision, at the full-performance level, relieves supervisor of clerical duties and minor administrative duties, exercising discretion and independent judgment. Necessity for dictation, familiarity with word processors, and other special requirements vary depending upon supervisor's preference. Performs related work as required.

Distinguishing Characteristics

This class is distinguished from the Office Assistant series by the assignment of support duties to a specific individual overseeing a section, or a division. The incumbent composes routine correspondence for the supervisor, screens calls and visitors and responds to inquiries requesting knowledge regarding office procedure, policy and guidelines, and program information. The position has limited authority to speak for the supervisor.

At this level, the work requires the knowledge necessary to complete complex procedural assignments. Incumbent is responsible for his/her own work, and mayassign and direct work of others. Although some tasks are defined and self-explanatory, the objectives, priorities, and deadlines are made by the supervisor. Work is reviewed, usually upon completion, for conformance to guidelines. Contacts at this level are frequent and often non-routine and/or of a confidential or sensitive nature, requiring tact and the ability to judge which inquiries can be answered or must be referred.

Examples of Work

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

Answers telephone, screens calls, and places outgoing calls.

Screens mail and responds to routine correspondence.

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

Schedules appointments and makes travel arrangements and reservations for supervisor.

Takes and transcribes dictation, or transcribes from dictation equipment.

Composes form letter, routine correspondence, and factual reports.

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

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

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

May maintain basic bookkeeping records for grants, contract or state appropriated funds.

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

May attend meetings take notes and relay information; typically would not interpret information or speak on behalf of supervisor.

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 Division of Personnel classification specification than that under which she is currently assigned. Seegenerally, 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 the Work" section of a classification specification is its most critical section. 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 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 Services, Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990). Finally, Personnel's interpretation and explanation of the classification specifications at issue, if said

language is determined to be ambiguous, should be given great weight unless clearly erroneous. See, W.Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (1993).

The following findings of fact are deduced from the record established at both the level two and four hearings in this matter.

Findings of Fact

1. Grievant works within the Staff Development office at Huntington State Hospital (hereinafter Hospital). Her supervisoris the Director of the Staff Development office. Grievant and her supervisor make-up the Staff Development office.

2. At various times, Grievant provides clerical support for the Hospital's Director of Nursing Services, the Director of the Psychology Department or the Infection Control Nurse when those offices become understaffed. This activity does not represent a predominent portion of Grievant's duties.

3. The Staff Development office is responsible for the following: maintaining records and files of all education programs utilized by the Hospital's staff; scheduling staff training seminars, departmental meetings, in-services, orientations, etc.; keeping forms, reports, letters, memoranda and schedules concerning staff development, training and required continuing education; maintaining records and forms for sick, annual and approved leave; maintaining student affiliation records and contracts; and keeping inventory of supplies.

4. Grievant performs clerical duties, including but not limited to typing, filing, screening mail and phone calls, publishing monthly calendars for staff training, taking dictation, updating employee handbooks, brochures and policies, and composing form letters and correspondence to be sent to both in-house and outside governmental agencies.

5. Grievant prepares rooms for use in training sessions by setting-up audio and video equipment.

The distinguishing characteristics section of the Secretary I classification specification contrasts that classification from theclassifications within the Office Assistant series by reference to "the assignment of support duties to a specific individual overseeing a section, or a division." It is also accepted that these support duties must not only be clerical but some duties must be administrative which require the incumbent's exercise of "discretion and independent judgment." The Division of

Personnel further avers that in creating the Secretary series it meant for that designation to apply only to a few employees who work for administrators of programs and divisions which are both large and complex in nature. It was asserted that Grievant does not work for such an administrator.

Without addressing the hierarchy of Grievant's superior's position in relation to other administrators within the Hospital, the Department of Health and Human Resources or other State agencies, it is clear from the record that a predominant portion of Grievant's time is spent performing clerical duties involving record and time keeping within the framework of the Staff Development office. She is responsible for filing, scheduling, maintaining and updating reports and employee information, typing, acting as a receptionist and screening mail. Further, while it is accepted that Grievant is often called upon to answer questions concerning training, record keeping or requirements for various certifications, she simply responds to these inquiries by referring to established records, schedules and guidelines. She is not responsible for formulating or interpreting the requirements upon which her record keeping is based. After consideration of thesefacts, it is determined that the nature of Grievant's job duties is best described by the Office Assistant II classification specification than the Secretary I classification specification because she does not relieve her superior of any administrative duties.

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

Conclusion of Law

Grievant has failed to establish that the West Virginia Division of Personnel's classified position of Secretary I is the "best fit" for the predominant duties required of the position which she maintains within the Staff Development office at Huntington State Hospital. Simmons v. W.Va. Dept. of HHR/Div. of Personnel, Docket No. 90-H-433 (Mar. 28, 1991); Broaddus v. W.Va. Div. of Human Services, Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990).

Therefore, this grievance is hereby **DENIED**. 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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ALBERT C. DUNN, JR.

Administrative Law Judge

May 17, 1994