BARBARA L. GORDON

v. Docket No. 93-HHR-415

DEPARTMENT OF HEALTH AND

HUMAN RESOURCES/DIVISION OF PERSONNEL

DECISION

Grievant, Barbara Gordon, employed by the Department of Health and Human Resources (DHHR or Respondent), filed a level four grievance appeal on November 1, 1993, alleging that she is misclassified as an Office Assistant I. Ms. Gordon asserts that her proper classification has been Office Assistant II since December 1992, the effective date of a reclassification implemented by the Division of Person nel (Personnel). A level four hearing was conducted on December 6, 1993, at which time the case became mature for decision after both parties elected to waive the opportunity to file post-hearing submissions.

In a memorandum of August 21, 1992, directed to Vickie Sapp, Support Service Supervisor, Grievant, who was then classified as a Typist II, listed her duties as follows:

Typist-types letters, memoranda, expense accounts, reports and social summaries.

Receptionist-greets and directs clients, maintains registers on a daily and monthly basis, sorts and distributes mail, stamps and sorts outgoing mail, take mail to post office, deliver night deposit bag to bank in evening, pick up night deposit bag every morning and make direct deposits when necessary.

Switchboard Operator-directs incoming calls and takes messages.

Back-up Terminal Operator

Miscellaneous-issue TRIP tickets, file operate copy and postage machines

After reviewing Grievant's duties and conferring with DHHR administrators, Personnel reclassified her as an Office Assistant I.

On November 30, 1993, Grievant completed a position description in which she stated her primary duties were those of receptionist (21 hours per week), typist (5 hours per week), filing (6 hours per week), and terminal operator (6 hours per week). She asserts that these duties, together with her prior experience and training, qualify her for classification as Office Assistant II. (See footnote 1) To further support her claim Grievant offered the testimony of Ms. Sapp and Joseph Turner, Region III Office Administrator.

Ms. Sapp initially stated that she perceived no differ ences in duties performed by Grievant and another office employee who is classified as Office Assistant II. Under further questioning, Ms. Sapp stated that the Office Assistant II works primarily as a terminal operator, entering information into the computer system approximately seventy (70) percent of the day, while Grievant spends the majority of her work day acting as a receptionist. The supervisor also noted that Grievant works as a backup to the Office Assistant II; therefore, she is knowledgeable in all the computer programs and is capable of retrieving information from the computer when needed.

Mr. Turner testified that DHHR maintains fifteen offices in Region III and that receptionists in several of those offices are classified as Office Assistant II. Mr. Turner opined that the work completed by the two classes of Office Assistants are generally the same but that the percentage of time spent on specific tasks differed. The administrator did not specifically address Grievant's situation, stating that he visits the Philippi office where she is located only every two to three months.

Personnel's position was set forth in a memorandum submitted at level three by Lowell D. Basford, Assistant Director, Classification and Compensation. In this document dated July 21, 1993, Mr. Basford stated Office Assistant I is the entry or beginning level of the class series and while the position entails a significant variety of cleri cal/office support duties including typing, filing, answer ing the telephone, receiving and distributing mail, posting information, etc., the work typically assigned to positions in this class is less difficult and complex than thatperformed by employees in the Office Assistant II and III classes.

Mr. Basford also noted that Personnel worked with DHHR in the development of the classification structure for the department and DHHR was given input into the allocation of each position to a class. To illustrate, Mr. Basford attached a memorandum, dated November 6, 1992, from Thomas P. Gunnoe, Office Director for Respondent's Office of Operations, in which he advised Mr. Basford that Grievant would be correctly classified as Office Assistant I. Based upon the foregoing, Mr. Basford

argues that Grievant has not proven her classification to be clearly erroneous; there fore, the decision by Personnel should not be overturned.

Virginia Fitzwater, Senior Personnel Specialist, represented Personnel at the level four hearing. Ms. Fitzwater testified that Grievant's duties, as discussed during the level four hearing and listed on the November 1993 position description, confirms that a predominant portion of her duties are those of a receptionist, support ing the classification of Office Assistant I. Ms. Fitzwater explained that a higher classification would be warranted only if Grievant's duties reflected a predominant amount of work done in an area requiring that she exercise a certain amount of autonomy. For example, if she would interpret and/or apply office regulations and procedures to specific situations, Grievant might be entitled to a higher classification. Finally, the personnel specialist notedthat while Grievant's ability might well exceed the duties which she currently performs, it would be improper to base the classification determination on personal characteristics of the incumbent employee.

The method of reviewing misclassification cases is well established. In order for the Grievant to prevail she must prove, by a preponderance of the evidence, that her duties more closely match those of Office Assistant II than those of the classification to which she is presently assigned, Office Assistant I. See generally, Hayes v. W.Va. Dept. of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989). The duties of the two positions in question are set forth in the following portions of the the relevant classification descriptions:

OFFICE ASSISTANT I

Nature of Work

Under close supervision, performs entry level work in a variety of routine clerical tasks within prescribed proce dures 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 informa tional; 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.

Knowledge, Skills and Abilities

Knowledge of office procedures and methods.

Knowledge of business English, spelling and arithmetic.

Ability to operate the common types of office equipment incidental to the job.

Ability to maintain routine clerical records and to prepare reports from these records.

Ability to understand and follow oral and written instructions.

Minimum Qualifications

Training

Education equivalent to graduation from a standard four-year high school.

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 docu ments, 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 prob lems. 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. Con tacts 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 calcula tions (addition, subtraction, division or multiplication); corrects error if the answer is readily available or easily determined.

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

Knowledge, Skills and Abilities

Knowledge of office procedures and methods.

Knowledge of business English, spelling and arithmetic.

Ability to operate the common types of office equipment related to the job.

Ability to understand and follow oral and written instructions.

Minimum Qualifications

Training: Graduation from a standard high school or the equivalent.

Experience: Two years of full-time or equivalent part- time paid experience in routine office work.

Substitution: College hours, related business school, or vocational training may be substituted through an estab lished formula for the required experience.

These 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 Services, Docket No 89-DHS-606, 607, 609 (Aug. 31, 1990). Finally, Personnel's interpretation and explanation of the classifi cation 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).

It is readily apparent from the Nature of Work specifi cations that the significant differences between Office Assistant I and II are the complexity of the work and the amount of supervision under which the employee functions. While Grievant performs a variety of duties which are invaluable in assuring smooth intra-office work flow, it isclear that she is rarely, if ever, required to interpret and apply office procedures, rules, and regulations, and her authority for independent action is limited. Although Grievant may work independently, her duties are routine and completed under the guidance of well-structured directives.

It is undisputed that Grievant performs many of the Examples of Work listed on the Office Assistant II classifi cation description; however, it must be noted that these duties overlap those of Office Assistant I. These examples are not comprehensive of the work required of the incumbent and,

when considered alone, do not illustrate the perfor mance level of the employee.

There appears to be no dispute that Grievant possesses the knowledge, skills, and abilities to meet the minimum qualifications required of an Office Assistant II. Grievant erroneously places much emphasis on these factors to support her claim to the higher classification. While it would appear to establish that Grievant is underemployed to the extent that she may be capable of performing the duties of a higher-ranked position, classification must be based upon the actual duties performed.

By her own admission, approximately three quarters of Grievant's workday is allocated to typing, filing and acting as a receptionist. Clearly, these predominant duties "best fit" the position description for Office Assistant I. Based upon the foregoing, the undersigned cannot determine thatPersonnel's application of standards resulting in Grievant's classification as an Office Assistant I is clearly wrong.

In addition to the foregoing narration, the following specific findings of fact and conclusions of law are made.

FINDINGS OF FACT

1. Grievant is employed as an Office Assistant I at the Philippi office in Region III of the Department of Health and Human Resources.

2. Grievant estimates that her duties as the office receptionist consume approximately twenty-one hours per week. In this capacity she functions as the telephone operator, sorts and distributes mail, maintains the applica tion, OBRA, and receptions registers, and verifies medical card numbers and income. She primarily works with a photo copier and postage machine to complete these duties. Grievant also spends five hours per week typing letters, expense account forms, social summaries and memos. Six hours per week are allocated to filing and the same amount of time is spent working as a back-up for the computer terminal operator. The remaining two hours are consumed by delivering the mail to the post office and taking "the bank bag to the bank every evening" and collecting the bag every morning.

3. Grievant's duties do not require that she interpret or apply office procedures, rules, and regulations. Grievant's duties do consist of a variety of routine clerical tasks which she performs within prescribed procedures and guidelines.

4. Many of the "Examples of Work" overlap between the classification descriptions for Office Assistant I and II; however, the distinguishing factor which actually separates the two classes is the difficulty and complexity of the job duties.

CONCLUSIONS OF LAW

1. Grievant has not proven by a preponderance of the evidence that her duties more closely match the classifica tion of Office Assistant II, or that the higher classifica tion constitutes the "best fit" for the duties she performs. See generally, Hayes v. W.Va. Dept. of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989); Simmons v. W.Va. Dept. of Health and Human Resources, Docket No 90-H-433 (Mar. 28, 1991).

2. The performance of some duties outside the employ ee's classification does not render her misclassified. Dooley v. W.Va. Dept. of Health and Human Services, Docket No. 90-H-498 (Mar. 19, 1991). It is the predominant duties of the position in question which are class-controlling. Broaddus v. W.Va. Div. of Human Services, Docket Nos. 89- DHS-606, 607, 609 (Aug. 31, 1990).

3. Personnel's interpretation of classification specifications should be accorded great weight unless shownto be clearly erroneous. W.Va. Dept. of Health v. Blankenship, 431 S.E.2d 681 (W.Va. 1993).

4. Personnel's determination that Grievant's job duties best fit the classification specification for Office Assistant I is not clearly erroneous.

Accordingly, the grievance is DENIED.

March 8, 1994 SUE KELLER

SR ALJ

Footnote: 1

Grievant had completed two years of vocational-technical training and had five plus years of experience, two at DHHR.