**JANET D. LOOMAN**

**v. Docket No. 94-HHR-249**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES/**

**DIVISION OF PERSONNEL**

DECISION

Grievant, Janet D. Looman, employed by the Department of Health and Human Resources (Respondent) in Morgantown, complains that the Division of Personnel (Personnel) misclassified her position under the classification title of Office Assistant I (OAI). Grievant contends that her proper classification should be Office Assistant II (OAII). The grievance was initially filed on June 9, 1993. Grievant and Respondent waived processing at levels one and two. Following an evidentiary hearing at level three the matter was denied by Sue H. Sergi, Deputy Commissioner Public Assistance, on June 1, 1994. The matter was advanced to level four on June 15, 1994.

At the conclusion of the level four hearing on September 1, 1994, Lowell T. Basford, Assistant Director of Personnel, requested an opportunity to further review Grievant's classification and conduct additional research. The requestwas granted and Mr. Basford was given thirty days to complete the review. By letter dated November 3, 1994, the undersigned inquired of Mr. Basford as to whether his research was concluded and the status of his findings. No written response was made; however, on or about December 28, 1994, Mr. Basford reported verbally that he could add nothing to the record.

Representing herself, Grievant stated at level four that the basis of her complaint is that while she is classified as an OAI, an employee in the Fairmont office with the same job description is classified as an OAII. Grievant asserts that she and the Fairmont employee share the same supervisor and do the same work; therefore, she is also entitled to the classification of OAII. Personnel argues that OAI is the "best fit" classification for the duties and responsibilities which Grievant performs.

Grievant completed a position description dated June 9, 1993, in which she stated that her duties and responsibilities consist of collecting the bank bags, etc., from Valley One Bank, collecting the mail at the post office and later sorting, stamping and delivering it to the appropriate individuals at the

office, typing, completing terminal transmissions, sitting at the front desk at least one-half hour per day, ordering supplies and completing "expedites" for Economic Services when needed. Both at the level three and level four hearings Grievant stated that approximately seventy-five percent of her time is spent typing.

At level three, Grievant's supervisor Marjorie Thompson described Grievant's assignment as typing for Social Services, terminal transmissions, backing up the front desk switchboard operator on an as needed basis, managing the morning mail, some filing, and upon occasion, completing expedites. Ms. Thompson stated that to the best of her knowledge Grievant does not compose the letters or other documents which Grievant types. The terminal transmissions are reviewed and approved prior to their issuance. Ms. Thompson concurs with Grievant that Grievant works independently to a great degree.

In order to prevail upon a claim of misclassification, a grievant must prove by a preponderance of the evidence that her duties are those of a classification higher than the one assigned, as described by the specifications for that classification promulgated by the West Virginia Division of Personnel. Bannister v. W.Va. Dept. of Human Services, Docket No. 89-DHS-251 (Nov. 3, 1989). The analysis is focused upon 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), and must include deference to Personnel's interpretation and explanation of the classification specifications at issue. W.Va. Dept. of Health v. Blankenship, 431 S.E.2d 681, 687 (W.Va. 1993).

In consideration of the foregoing guidelines, the relevant portions of the classification specifications for OAIand OAII 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 directive 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.

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.

## 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); correctserrors 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.

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.

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 classificationspecification is its most critical section. Atchison v. W.Va. Div. of Health, Docket No. 90-H-444 (April 22, 1991). The key to the analysis is to ascertain the predominant duties of the position in question insofar as they are class-controlling. Broaddus v. W.Va. Div. of Human Serv., Docket No. 89-DHS-606, 607, 609 (Aug. 31, 1990).

It is undisputed that Grievant's predominant duty is typing. She is not required to compose letters or reports but rather types routine correspondence and forms for eight Social Services employees. When Grievant prepares terminal transmissions they are reviewed and approved prior to issuance.

The majority of Grievant's remaining duties: collecting bank bags, dispersing mail, and relieving the switchboard operator, are routine tasks completed within prescribed procedures and guidelines. Although Grievant works under general supervision, there is no evidence that she performs multiple-step clerical tasks which require that she interpret and apply office procedures, rules and regulations required of an OAII.

Confusion may be generated by the overlapping of some examples of work. Clearly, several of Grievant's duties are listed on the classification description for OAII. However, the determining factor is that the OAII will have additional duties of a more complex nature and attendantresponsibilities. (See footnote 1) Although Grievant appears to perform her duties in an exceptional manner and may well possess skills and abilities which are not being utilized in this assignment, these factors may not be considered in determining her proper classification because positions, and not persons, are classified.

Of course, Grievant has not questioned whether her duties meet the specification of a certain classification description. Rather, her concern arises from a comparison with another employee. Grievant asserts that an employee assigned to Respondent's Fairmont office performs the same duties as Grievant, but is classified as an OAII. Paula Taylor, a Social Service Supervisor who works in both the Morgantown and Fairmont offices, testified at the level four hearing that she is in the Fairmont office weekly and observes that the OAII in that office performs the same duties as Grievant.

It is not apparent from the record as to the manner and extent that Grievant and Ms. Taylor are familiar with the Fairmont employee's duties. Because that individual was not called as a witness to testify as to her duties, there is no evidence upon which a comparison of the employees might be made. It may be that the Fairmont employee performs morecomplex duties unknown to Grievant or Ms. Taylor. In the alternative, if her duties are exactly the same, based upon the finding that Grievant is properly classified, it is possible that the Fairmont employee is not properly classified. However, for purposes of this decision, it is impossible to make any such finding due to a lack of evidence.

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

## FINDINGS OF FACT

1. Grievant is employed by the Department of Health and Human Resources as an Office Assistant I assigned to the Morgantown office.

2. Grievant's primary duty is typing, which consumes approximately seventy-five percent of her day. She also collects bank bags, etc., picks up and disperses the mail throughout the office, relieves the switchboard operator/receptionist a half hour daily, and enters information into the computer for terminal transmissions.

3. Although she works with minimal supervision, the duties performed by Grievant are generally routine in nature, with prescribed procedures and guidelines. There is no evidence that Grievant performs multiple-step clerical tasks which require her to interpret and apply office procedures, rules and regulations.

## CONCLUSIONS OF LAW

1. Grievant has not proven by a preponderance of the evidence that the classification of Office Assistant II 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. Personnel's interpretation of the classification specifications for the positions of Office Assistant I and Office Assistant II, as they apply to the duties being performed by Grievant, are not clearly erroneous and should be accorded great weight. W.Va. Dept. of Health v. Blankenship, 431 S.E.2d 681 (W.Va. 1993).

3. Grievant's job duties, as demonstrated by a preponderance of the evidence, best fit within the classification specification for Office Assistant I.

Accordingly, the grievance is DENIED.

January 31, 1995 Sue Keller, Senior Admn. Law Judge

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*Footnote: 1Even if Grievant does perform some duties that are outside her current classification of OAI, this alone would not render her misclassified. Dooley v. W.Va. Dept. of Health and Human Resources, Docket No. 90-H-498 (Mar. 19, 1991).*