BEVERLY ROSEWELL,

Grievant,

v. DOCKET NO. 95-EP-121

DIVISION OF ENVIRONMENTAL PROTECTION/
OFFICE OF WASTE MANAGEMENT and
DIVISION OF PERSONNEL,

Respondents.

D E C I S I O N

Grievant, Beverly Rosewell, filed this grievance, along with ten similar grievances by clerical personnel of the Division of Environmental Protection, on September 4, 1994, maintaining that she should be classified as a Secretary I or Secretary II, rather than her current classification as Office Assistant III. Following adverse decisions at the lower levels, Grievant advanced an appeal to Level IV on March 24, 1995. A hearing was held on May 15, 1995, at which time this case became mature for decision.

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 that 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. Dept. 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 Grievant's current classification constitutes the "best fit" for her required duties. Simmons v. W. Va. Dept. of HHR/Division 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 (W. Va. 1993).

Because the issue in this case involves proper classification, the relevant classification specifications are reproduced below.

OFFICE ASSISTANT III

Nature of Work: Under general supervision, performs advanced level, responsible and complex clerical tasks of a complicated nature involving interpretation and application of policies and practices. Interprets office procedures, rules and regulations. May function as a lead worker for clerical positions. Performs related work as required.

Distinguishing Characteristics: Performs tasks requiring interpretation and adaptation of office procedures, policies, and practices. A significant characteristic of this level is a job-inherent latitude of action to communicate agency policy to a wide variety of people, ranging from board members, federal auditors, officials, to the general public.

Examples of Work

Analyzes and audits invoices, bills, orders, forms, reports and documents for accuracy and initiates correction of errors.

Maintains, processes, sorts and files documents numerically, alphabetically, or according to other predetermined classification criteria; researches files for data and gathers information or statistics such as materials used or payroll information.

Types a variety of documents from verbal instruction, written or voice recorded dictation.

Prepares and processes a variety of personnel information and payroll documentation.

Plans, organizes, assigns and checks work of lower level clerical employees.

Trains new employees in proper work methods and procedures.

Answers telephone, screens calls, takes messages and complaints and gives information to the caller regarding the services and procedures of the organizational unit.

Receives, sorts and distributes incoming and outgoing mail.

Operates office equipment such as electrical calculator, copying machine or other machines.

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

Files records and reports.

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 and analyze data for management.

Knowledge, Skills and Abilities

Knowledge of office methods of practices and procedures.

Knowledge of business English, spelling and arithmetic.

Knowledge of program operations and policies with respect to general functions performed.

Ability to maintain or supervise the maintenance of records of some complexity and to prepare reports and tabulations from these records.

Ability to establish and maintain effective working relationships with other employees and the public.

Ability to understand and effectively carry out complex oral and written directions.

SECRETARY I

Nature of Work

Under general supervision, at the full-performance level, relieves supervisor of clerical 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 determines appropriate procedures from among a variety of resources, methods, and processes. Incumbent is responsible for his/her own work, and may assign and direct the 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 letters, 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 of sources.

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

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

May prepare payrolls, keep sick and annual 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.

Knowledge, Skills and Abilities

Knowledge of general office procedures including typing, filing, and the use of variety of office equipment.

Knowledge of the correct use of English grammar.

Knowledge of the basic bookkeeping.

Ability to arrange efficient work schedules.

Ability to learn the policies and procedures of the unit and the organization.

Ability to type accurately, using a typewriter and/or word processor.

Ability to communicate well, both orally and in writing.

Ability to assign and check the work of others.

Ability to take and transcribe dictation where required.

Ability to greet the public and work well with others.

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 performed. 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 unusual assignments. 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 setgoals 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/section/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 correspondence, 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.

Knowledge, Skills, and Abilities

Knowledge of general office procedures including typing, filing, and the use of a variety of office equipment.

Knowledge of the correct use of English grammar.

Knowledge of basic bookkeeping.

Knowledge of basic research techniques.

Ability to arrange efficient work schedules.

Ability to learn the policies and procedures of the unit and the organization.

Ability to type accurately, using a typewriter and/or word processor.

Ability to communicate well, both orally and in writing.

Ability to assign and check the work of others.

Ability to take and transcribe dictation where required.

Ability to greet the public and work well with others.

After a careful review of the Level III transcript and exhibits, and the testimony given at Level IV, the undersigned makes the following findings of fact.

Findings of Fact

1. Grievant has been employed with Respondent Division of Environmental Protection since October 16, 1992. She was hired as a Typist II, pay grade 4 (See footnote 1)**, under the prior classification system after responding to a posted job notice. Level III, G. Ex. 21.**

2. Subsequent to Grievant's appointment, Respondent Division of Personnel implemented a Reclassification Plan which essentially reorganized and reclassified all office clerical workers within the state into two series of classifications: Office Assistants and Secretaries. Under that plan, the Typist II positions were reclassified as Office Assistant III positions.

3. Grievant was reclassified from a Typist II to an Office Assistant III, and received a pay increase commensurate with the reclassification.

4. Grievant is qualified to perform the work of a Secretary I or Secretary II.

5. The Office Assistant and Secretary series of job classifications contain several overlapping duties and examples of work. However, the critical difference between the classspecifications is the significant amount of administrative support the Secretary series provides, usually to one individual, as opposed to duties that emanate from the processes and procedures of the office.

6. Grievant performs a variety of clerical tasks, requiring multiple steps, at the advanced level due to the technical nature of the work involved in her office. Grievant's office is responsible for monitoring and enforcing solid waste management laws. The work of the office is driven by permit applications, requests for permit modifications, and other technical work performed by the engineers within the office relating to landfill operations. Grievant prepares form modification letters; answers telephones for the entire office; screens calls for Richard Cooke, Assistant Chief, and her immediate supervisor, Sudhir Patel; occasionally

takes dictation from Cooke; coordinates activities and schedules conferences for Patel; developed and maintains a computer log system of all landfill status and permit requests; and performs some other administrative work, such as keeping time slips for employees in the office.

7. Although Grievant occasionally types correspondence for Richard Cooke, Assistant Chief of the Section, and Sudhir Patel, her immediate supervisor, she does not perform the duties of a secretary, i.e., relieve Mr. Cooke or Mr. Patel of minor administrative work, speak on their behalf, or direct or delegate the work of others. Grievant's work is process-driven, i.e, the work is generated from the permit applications and modificationrequests which come into the office. The work envisioned by the secretary series is individual-driven, i.e, the work comes down to the secretary from one individual to whom she is specifically assigned, and without whom, there would be no secretarial position.

8. Grievant's duties are predominantly "process driven" and consistent with those envisioned by the Division of Personnel classification specification for Office Assistant III.

Conclusions of Law

1. Grievant has failed to prove by a preponderance of the evidence that she is improperly classified as an Office Assistant III based upon a review of her duties and responsibilities.

2. Personnel's interpretation of the three classification specifications at issue in this case is not clearly wrong as applied to the facts established by the Grievant. W. Va. Dept. of Health v. Blankenship, 431 S.E.2d 681 (W. Va. 1993).

Accordingly, this grievance is 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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MARY JO SWARTZ

Administrative Law Judge

Dated: June 30, 1995

Footnote: 1 ***The pay grade under the outdated classification and the reclassification plan are dissimilar.***