LINDA LYONS

v. Docket No. 94-HHR-434

DEPARTMENT OF HEALTH AND HUMAN RESOURCES/

DIVISION OF PERSONNEL

DECISION

Grievant, Linda Lyons, 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 July 29, 1993. Grievant and Respondent waived processing at levels one and two. Following an evidentiary hearing at level three the matter was denied on August 5, 1994. The matter was advanced to level four on August 16, 1994, and was held in abeyance pending review of a related matter. A level four hearing was conducted on March 14, 1995. Both parties waived the opportunity to file proposed findings of fact and conclusions of law prior to a decision being rendered.

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 because she and the Fairmont employee do the same work, 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 in September, 1993, in which she listed her duties and responsibilities as follows:

1. Typing for Economic Service Department - Thirty hours per week.

2. Ordering, receiving, storing clerical and cleaning supplies; processes out-going mail, postage meter and log; serves as a back-up terminal operator; covers for receptionist at lunch and during breaks; maintains records, such as the DHS, DF-10 register; receives, sorts, distributes and files all computer printouts

(some require copying); receives and files microfishe [sic]; processes in-coming mail in absence of mail clerk; collects and returns bank bags; types medical cards and food stamp identification cards. These duties require ten hours per week.

At level four, Grievant's supervisor Marjorie Thompson testified that the OAII in Marion County performs the same work as Grievant, that Grievant functions as a backup to thelead clerical worker, an OAIII, and that she considers Grievant's work to be complex. John Kaltenecker, Community Service Manager and previously Regional Administrator, confirmed that Grievant spends approximately three quarters of her work day typing for Income Maintenance, but he also opined Grievant's duties as backup terminal operator and backup to the lead worker are complex.

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 OAI and 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); 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 dataand 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 classification specification 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 theposition 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. By her own admission the typing consists primarily of form letters. Although she does occasionally compose a letter, it appears that it follows a format, setting forth dates of eligibility for Medicaid, etc., and is approved by a supervisor before it is issued. Grievant's remaining duties: collecting bank bags, dispersing mail, relieving the receptionist, filing, and ordering supplies, are routine tasks completed within prescribed procedures

and guidelines. Although Grievant may be required to manage certain unusual situations, such as a bomb threat called into the office, there is no evidence that she routinely 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 attendant responsibilities. (See footnote 1) Although Grievant appears to perform herduties 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.

Grievant concern regarding another employee who she considers to be similarly-situated, cannot be fully addressed in this decision. It is not apparent from the record as to the manner and extent that Grievant is familiar with the Fairmont employee's duties. Ms. Thompson offered her opinion that the positions involve the same work, but offers no substantive evidence in support of her testimony. Because the cited 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 more complex duties unknown to Grievant. 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 insufficient 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, orders clerical and cleaning supplies, relieves the receptionist

during lunch and breaks, 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, within 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 beaccorded 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.

DATED: March 31, 1995 Sue Keller, Senior Admn. Law Judge

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).