

BRIAN K. WETZEL,

Grievant,

v.

DOCKET NO. 94-T&P-617

DEPARTMENT OF NATURAL RESOURCES

and DIVISION OF PERSONNEL,

Respondents.

D E C I S I O N

Grievant, Brian K. Wetzel, filed this grievance seeking a higher title and pay on June 1, 1994, stating:

My duties are that of Asst. Golf Supervisor, but my pay title is only Recreation Aid/Clerk.

Following adverse decisions at the lower levels, Grievant advanced an appeal to Level IV on October 21, 1994. Following several continuances for good cause, a hearing was held on February 13, 1996, at which time this case became mature for decision.

Grievant, currently classified as a Park Aide at Pipestem State Park, alleges that he performs substantially all of the duties that are performed by Phyllis Hopkins, an Office Assistant II, at the park's golf pro shop. Additionally, Grievant lends his considerable expertise as a professional golfer to Pipestem by conducting tournaments and giving lessons, as well as contributing his golfing services outside of the park to such places as Concord College and The Greenbrier. Without a doubt, these services reflect positively on Pipestem and the State, and produce revenues in the form of increased customer usage of the park. Grievant asks to be reclassified as an Office Assistant II, with all back pay and benefits.

In order for Grievant to prevail upon a claim of misclassification, he must prove by a preponderance of the evidence that his duties for the relevant period more closely matched another cited Personnel classification specification than that under which he 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 his 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 as follows:

PARK AIDE

Nature of Work

Under close supervision, performs a wide variety of general clerical and/or building and grounds maintenance work in a state park. Duties require some physical labor and usually vary seasonally. Performs related work as required.

Examples of Work

Attends campground; registers campers, collects fees, assigns campsites, sells firewood, ice.

Sells souvenirs, packaged food, other retail items in park gift shop, golf pro shop, or at campgrounds; rents sports equipment.

Cleans restrooms, floors, windows and does a variety of general housekeeping duties.

Attends golf course; schedules tee-off times, collects fees, oversees equipment rental and use.

Plows and shovels snow, operates sled run and rents winter sports equipment.

Mows, grass, picks up trash, chops wood, digs ditches and performs other grounds work during camping season.

Completes appropriate reports for area of assignment.

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 under-standing 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 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 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.

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 by Respondent's Pipestem State Park since 1978. Grievant was hired as a Recreation Attendant under the prior classification system.
2. Subsequent to Grievant's appointment, Respondent Division of Personnel implemented a Reclassification Plan which reorganized and reclassified all workers within the state, including employees of Respondent Department of Natural Resources.
3. Grievant was reclassified in 1991 from a Recreation Attendant to a Park Aide.
4. Grievant's predominant duties include running the cash register in the pro shop, reserving tee times, fitting customers for clubs and shoes, maintaining supplies, assisting with inventory, and running and conducting golf tournaments.
5. Grievant is held out to the public as an Assistant Golf Pro in connection with various golf tournaments and lessons offered by Pipestem State Park.
6. Grievant is a professional golfer and a member of the Professional Golfers' Association (PGA).
7. Grievant performs many golf-related activities outside of his duties at Pipestem which directly or indirectly benefit Pipestem, including teaching golf at Concord College, organizing tournaments, and acting as an official at The Greenbrier.
8. The distinction between the Park Aide classification and the Office Assistant II classification is the level of supervisory authority delegated to the position.
9. Grievant and others in the pro shop, including Phyllis Hopkins, an Office Assistant II, perform many identical tasks and take responsibility for various duties and responsibilities. There is considerable overlap between the tasks performed by all of the employees of the pro shop.
10. Ms. Hopkins has been designated as the "Number Two" person in charge of the pro shop when William Robertson, the Supervisor of the pro shop, is away.

11. Grievant has not been delegated supervisory authority at Pipestem.

Although it is undisputed that Grievant possesses a specialized skill and training in golf, which undoubtedly benefits Pipestem State Park and the State of West Virginia, it is also undisputed that Grievant performs the duties of a Park Aide at the park. Unfortunately, the reclassification project classifies positions, not people. Thus, even though Grievant is an extremely talented and skilled golfer and contributes his expertise to the park, it does not alter the fact that he performs the duties of a Park Aide. It is unclear from the evidence whether there is another position description in the State classification system which would better fit Grievant's duties, but Grievant's offer of Office Assistant II is not the best fit compared with Park Aide.

Conclusions of Law

1. Grievant has failed to prove by a preponderance of the evidence that he is improperly classified as a Park Aide based upon a review of his duties and responsibilities.

2. Personnel's application of the 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.

MARY JO SWARTZ

Administrative Law Judge

Dated: February 29, 1996

