

**LINDA HARMON,**

**Grievant,**

**v.**

**Docket No. 99-HHR-432**

**DEPARTMENT OF HEALTH AND  
HUMAN RESOURCES/BUREAU  
FOR CHILDREN AND FAMILIES,  
and DIVISION OF PERSONNEL,**

**Respondents.**

### **DECISION**

Linda Harmon ("Grievant") initiated this grievance on August 20, 1999, alleging that she is misclassified in her present position as an Accounting Technician III for the Department of Health and Human Resources' ("DHHR") Bureau for Children and Families. She seeks reclassification as an Accounting Technician IV. Relief at levels one and two was denied, and a level three hearing was conducted on September 22, 1999, before Grievance Evaluator Paul Marteney. The grievance was denied in a written level three decision dated September 29, 1999. Grievant appealed to level four on October 7, 1999, and a level four hearing was conducted in the Grievance Board's office in Wheeling, West Virginia, on March 27, 2000. Grievant represented herself; DHHR was represented by counsel, Anthony Eates; and the Division of Personnel ("DOP") was represented by Lowell Basford, Assistant Director of the Classification and Compensation Section. This matter became mature for consideration upon receipt of the parties' fact/law proposals on May 2, 2000.

### **Findings of Fact**

1. Grievant is employed by DHHR as an Accounting Technician III. She is assigned to the Financial Office of the Operations Unit which serves Ohio, Marshall, Brooke, and Hancock counties.
2. Grievant's duties and responsibilities involve all financial and purchasing activities for the four-county area to which she is assigned. The majority of her duties involve receiving and posting

payments, making bank deposits, writing checks, and balancing the various accounts. She prepares monthly reports reflecting the financial activities of the office.

3. Emergency situations and problems are referred to Grievant's immediate supervisor, Tony Cuchta, Operations Supervisor.

4. Grievant performs her duties largely without direct supervision. Her work is guided by manuals and procedures, along with direction from DHHR's main financial office, her supervisor, and the Community Service Manager, Ronald Pattison.

5. The four-county district to which Grievant is assigned is DHHR's largest district.

6. Mr. Cuchta is responsible for managing the office for the Operations Unit, and he is also the equipment coordinator. He supervises and manages all the employees in the Operations Unit.

### **Discussion**

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 match those of another cited classification specification than the classification to which she is currently assigned. See generally, Hayes v. W. Va. Dep't of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989). Personnel job specifications generally contain five sections as follows: first is the "Nature of Work" section; second, "Distinguishing Characteristics"; third, the "Examples of Work" section; fourth, the "Knowledge, Skills and Abilities" section; and finally, the "Minimum Qualifications" section. These 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 the Work" section of a classification specification is its most critical section. See generally, Dollison v. W. Va. Dep't 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. Dep't of Health and Human Resources, Docket No. 90-H-433 (Mar. 28, 1991). The predominant duties of the position in question are class-controlling. Broadus v. W. Va. Div. of Human Serv., Docket Nos. 89-DHS-606, 607, 609 (Aug. 31, 1990). Importantly, DOPs interpretation and explanation of the classification specifications at issue should be given great weight unless clearly wrong. See, W. Va. Dep't of Health v. Blankenship, 189

W. Va. 342, 431 S.E.2d 681, 687 (1993). The holding of the Supreme Court of Appeals of West Virginia in Blankenship presents a state employee contesting her classification with a substantial obstacle to overcome in attempting to establish that she is misclassified.

The classification specifications at issue are set forth below, in pertinent part.

### **ACCOUNTING TECHNICIAN III**

#### **Nature of Work**

Under general supervision, performs full-performance accounting support duties. The incumbent is responsible for performing moderately complex posting, encumbering of funds, and examining records to assure adherence to accounting laws and regulations. Performs related work as required.

#### **Distinguishing Characteristics**

This is the full-performance level of paraprofessional accounting. Responsibilities may include training and reviewing work of subordinate staff.

#### **Examples of Work**

Classifies/codes a variety of transactions which may require considerable knowledge.

Reviews accounts, ledgers, claims, invoices, purchase orders, receipts, or similar materials for completeness, accuracy, and compliance with laws and regulations.

Prepares bank deposits and/or checks.

Makes correcting and/or adjusting entries on ledger.

Examines accounting records to assure adherence to accounting laws and regulations; verifies calculations and ensures accuracy and validity of transactions.

Prepares and illustrates statements and reports which reflect the relationships among accounts and which require occasional searching and analysis.

Performs moderately complex posting, encumbering of funds, and balancing receipts of others.

Maintains accounting records; gathers data and prepares moderate to complex financial statements and reports from records maintained.

May assist supervisor in preparing budget by compiling data, preparing summaries and requests, and developing cost projections.

May train and review work of clerical staff.

## **ACCOUNTING TECHNICIAN IV**

### **Nature of Work**

Under general supervision, performs advanced accounting support duties. The incumbent is responsible for posting complex journal entries that require the use of specialized accounting procedures, assisting the supervisor in preparing agency budgets, and examining records to assure adherence to accounting laws and regulations. Performs related work as required.

### **Distinguishing Characteristics**

This is advanced level paraprofessional accounting work. Job duties include performing complex balancing and reconciling of multiple accounts. Employees in this class are responsible for accuracy of accounts for others and require little supervision. Responsibilities may also include being a lead worker.

### **Examples of Work**

Classifies/codes a variety of transactions which may require considerable knowledge.

Transfers funds and balances multiple accounts such as hospital billing.

Examines accounting records to assure adherence to accounting laws and regulations; verifies calculations and ensures accuracy and validity of transactions.

Prepares and illustrates specialized statements and reports which reflect the relationships among accounts and which require steady searching and analysis.

Makes complex journal entries and other transactions which require use of specialized accounting procedures.

Maintains accounting records; gathers data and prepares complex financial statements and reports from records maintained.

Assists supervisor in preparing budget by compiling data, preparing summaries and requests, and/or developing cost projections.

Contacts associates, administrators, and general public in order to obtain information, discuss changes in documents, or resolve problems with more complex accounts.

Makes recommendations on the development or revision of agency policies and procedures.

May assign account/department codes.

Grievant believes she is misclassified for two reasons. First, she contends that she performs all of the same duties and responsibilities of other DHHR employees who are classified as Accounting Technician IVs, including an employee who was reclassified as a result of a level three grievance decision, Sena Pell. Second, Grievant, along with her supervisors, believes that her duties rise to the level of complexity of a higher classification, due to the large size of the region which she serves.

Ms. Pell did receive reclassification from Accounting Technician III to Accounting Technician IV as the result of a level three grievance decision. However, as explained by Mr. Basford at level four, DOP did not agree with this decision, which was issued against their wishes. [\(See footnote 1\)](#) Moreover, this Grievance Board has long recognized that classification determinations are not made based upon comparison to other employees, but upon which classification specification is the best fit for the employee's duties. See Baldwin v. Dep't of Health and Human Resources, Docket No. 99-HHR-142 (Oct. 28, 1999). In the instant case, Grievant's comparison of her duties to those of other employees who may or may not be correctly classified as Accounting Technician IV is insufficient to establish that she is misclassified.

As can be seen from the classification specifications for Accounting Technician III and IV, there is a significant amount of overlap in duties of the two positions. Mr. Basford testified that only four state employees were classified as Accounting Technician IV, and that approximately forty employees received the Accounting Technician III classification. Those DHHR employees who were classified as Accounting Technician IV report directly to a Community Service Manager. Therefore, unlike Grievant, who works under the direction of an Operations Supervisor, the Accounting Technician IVs plan, organize and direct the work of the entire financial office, along with performing accounting and budgetary duties. The full responsibility of fiscal operations is placed upon an Accounting Technician IV, where Grievant shares these responsibilities with her supervisor.

Also, Mr. Basford stated that the quantity of Grievant's work, because of the size of the larger region where she works, was not a factor in deciding classifications. The duties and responsibilities themselves were the determining factor, not the quantity of work. While it is obvious that Grievant is an extremely competent, valued employee, the evidence submitted does not establish that she is misclassified. She has not proven that DOP's interpretation of the class specifications at issue, or the assignment of her position to the Accounting Technician III classification, is clearly wrong.

Consistent with the foregoing, the following conclusions of law are made.

### **Conclusions of Law**

1. 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 match those of another cited classification specification than the classification to which she is currently assigned. See generally, Hayes v. W. Va. Dep't of Natural Resources, Docket No. NR-88-038 (Mar. 28, 1989).
2. Classification 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 the Work" section of a classification specification is its most critical section. See generally, Dollison v. W. Va. Dep't of Employment Security, Docket No. 89-ES-101 (Nov. 3, 1989).
3. DOPs interpretation and explanation of the classification specifications at issue should be given great weight unless clearly wrong. See, W. Va. Dep't of Health v. Blankenship, 189 W. Va. 342, 431 S.E.2d 681, 687 (1993).
4. Grievant has failed to prove that DOP's determination that the Accounting Technician III classification is the best fit for her assigned duties is clearly wrong.

Accordingly, this grievance is **DENIED**.

Any party or the West Virginia Division of Personnel may appeal this decision to the Circuit Court of Kanawha County or 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 (1998). 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. However, the appealing party is required by W. Va. Code § 29A- 5-4(b) to serve a copy of the appeal petition upon the Grievance Board. The appealing party must also provide the Board with the civil action number so that the record can be prepared and properly transmitted to the appropriate circuit court.

**Date: May 15, 2000**

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**DENISE M. SPATAFORE**

**Administrative Law Judge**

[Footnote: 1](#)

*DOP has no right to appeal a level three grievance decision. Parsons v. W. Va. Bureau of Employment Programs, 189 W. Va. 107, 428 S.E.2d 528 (1993).*