

State of New Hampshire



PERSONNEL APPEALS BOARD

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APPEAL OF:

JAMES BEACH (DOCKET #99-C-14)

AND

DAVID ARRUDA (DOCKET #99-C-15)

DEPARTMENT OF SAFETY - BUREAU OF MARINE PATROL

January 18, 2000

The New Hampshire Personnel Appeals Board (Rule, Johnson and Barry) met on Wednesday, September 22, 1999 under the authority of RSA 21-I:57 to hear the appeals of James Beach and David Arruda, employees of the Department of Safety, Bureau of Marine Patrol. The appellants were represented at the hearing by SEA Field Representative Jean Chellis. Virginia Lamberton, Director of Personnel, appeared on behalf of the State. Mr. Beach and Mr. Arruda were appealing the Director's decision denying their request for reallocation of their existing positions from salary grade 13 to salary grade 14.

Without objection by either party, the appeal in this matter was heard on oral argument and offers of proof. The record of the hearing consists of pleadings submitted by the parties, orders and notices issued by the Board, the audio tape recording of the hearing on the merits, and documents admitted into evidence as follows:

Appellants' Exhibits

1. September 14, 1998 interoffice memorandum regarding training for the 41' U.T.B.
2. Safety Automotive Mechanic Supplemental Job Description and Class Specification
3. Navigation Maintenance Mechanic Class Specification

4. Newspaper clipping regarding "Two Drown in Area Lakes"
5. Newspaper clipping regarding "Cabin Cruiser Burns in Meredith"
6. Division of Safety Services Organizational Chart
7. March 30, 1999 letter to Claude Ouellette from Virginia Lamberton regarding Personnel Director's decision concerning Navigation Maintenance Mechanic positions
8. Position Classification Questionnaire completed by David Arruda in 1996 and resubmitted in 1998
9. Navigation Maintenance Mechanic Supplemental Job Description
10. Selected Point Distribution information fi-om the 12/02/97 Administrative Services list

State's Exhibits

- A. Memo dated 1018198 from Director of Safety Services, Dave Barrett to Director Lamberton
- B. Position Classification Questionnaire for position #10367, Navigation Maintenance Mechanic, with current and proposed supplemental job descriptions
- C. Position Classification Questionnaire for position #10367 from previous review (1996)
- D. Position Classification Questionnaire for position #10539, Navigation Maintenance Mechanic, with current and proposed supplemental job descriptions
- E. Position classification Questionnaire for position #10539 from previous review (1996)
- F. Decision letter addressed to Claude Ouellette, dated 3130199
- G. Decision letter from previous review, dated 6/6/96, addressed to Claude Ouellette
- H. Class specification for Navigation Maintenance Mechanic
- I. Organizational chart - Division of Safety Services
- J. Letter of Appeal dated April 14, 1999
- K. May 4, 1999 letter to Mary Ann Steele from Jean Chellis
- L. Current and proposed point factors for Navigation Maintenance Mechanic plus point factors for Navigation Maintenance Mechanic Supervisor

Ms. Chellis argued that five of the nine classification evaluation factors were in dispute, and she asked the Board to address each of them in its decision. She further asked the Board to find that the appellants did not need to demonstrate a change in the assigned duties and responsibilities since the positions were last reviewed in order to persuade the Board that the positions were incorrectly classified in accordance with the classification plan. Rather, she argued, the Board could find that the positions were incorrectly allocated when they were established and should be reallocated accordingly.

The class specification for Navigation Mechanic describes the Basic Purpose of the position as follows: "To maintain and repair a variety of boats, inboard and outboard marine engines, trailers, vehicles, navigational aids and related equipment."

The Characteristic Duties and Responsibilities included in the specification are as follows:

- Assists in the maintenance, repair and operation of patrol boats and in the repair of spars, buoys and beacons.
- Performs general care and maintenance of patrol boats, including the complete overhaul of inboard and outboard motors on Department of Safety owned boats.
- Performs mechanical work as required on motor vehicles and boat trailers.
- Performs general maintenance of boat engines.
- Maintains a log of all work performed.
- Installs sirens, lights, and radio equipment on new boats to prepare boats for use as patrol boats.
- Recommends needed parts, supplies, and equipment to supervisor to ensure that necessary items are available to perform required maintenance.

The classification evaluation factors currently assigned to these positions are as follows:

- Skill: Requires skill in recommending routine changes in standardized operating procedures OR in retrieving, compiling and reporting data according to established procedures OR in operating complex machines.
Knowledge: Requires knowledge of business practices and procedures or technical training in a craft or trade, including working from detailed instructions, to apply knowledge in a variety of practical situations.
- Impact: Requires responsibility for contributing to immediate, ongoing agency objectives by facilitating the direct provision of services to the public or other state agencies. Errors at this level result in inaccurate reports or invalid test results and require significant investment of time and resources to detect.

- **Supervision:** Requires no supervision of employees or functions.
- **Working Conditions:** Requires performing regular job functions in an environment which includes exposure to continuous physical elements or a number of disagreeable working conditions with frequent exposure to minor injuries or health hazards.
Physical Demands: Requires medium to heavy work, including continuous physical exertion such as frequent bending, lifting or climbing.
Communication: Requires obtaining and exchanging information, referring inquiries to the appropriate source, or responding to questions from state employees or members of the general public.
Complexity: Requires a combination of job functions to establish facts, to draw daily operational conclusions, or to solve practical problems. This level also requires providing a variety of alternative solutions where only limited standardization exists.
- **Independent Action:** Requires making a limited number of choices in selecting among alternative courses of action under supervisory guidance and in performing job functions according to a variety of prescribed policies or procedures.

Ms. Chellis argued that Mr. Beach and Mr. Arruda are responsible for supervising seasonal maintenance employees whenever the Maintenance Foreman was not available, and for providing supervision to Marine Patrol Officer trainees in proper equipment operation and maintenance. She argued that although they may not be responsible for assigning work, signing supplementary job descriptions or completing performance evaluations for full-time personnel, they do provide supervision and direction to other employees in certain aspects of their work and should be rated accordingly. Ms. Chellis noted that when the positions were reviewed in 1996, the Division of Personnel agreed that these positions should be rated at level 2 for Supervision, and that the classification should be revised to reflect that they continue to have supervisory responsibilities at level 2 rather than at level 1.

Ms. Chellis argued that the Working Conditions factor should be increased from level 3 to level 4 to reflect the fact that Navigational Mechanics are required to work in inclement weather, rough water, hazardous electrical storms and in night conditions, and are exposed to risks far greater than those described in the current allocation. She argued that the Safety Auto Mechanics are rated at level 3, but are rarely asked to work in conditions other than those present in a garage. Ms. Chellis argued that the Physical Demands factor should be increased as well, from

level 4 to level 5, because the appellants are responsible for handling mooring systems and boat trailers and for installing and removing seasonal markers weighing hundreds of pounds.

Ms. Chellis argued that the appellants regularly have extensive discussions with Marine Patrol Officers, and should at least be rated at level 3 for Communications. She explained that the appellants routinely are required to diagnose equipment problems over the phone, thereby requiring them to elicit information, explain facts, and interpret situations. Ms. Chellis argued that the appellants frequently are required to work unsupervised in remote locations, as well as working without supervision at the marine patrol headquarters when the Maintenance Supervisor is not on duty. She argued that their assignments therefore warranted increase in the Independent Action factor from level 2 to level 3.

Ms. Lamberton argued that the information contained in the appellants' position classification questionnaires were all but identical to the position classification information that had been provided in 1996. While she agreed that there may be more work for the appellants to do now than there was in 1996, the nature and degree of responsibility had not changed and would not support a reclassification or reallocation of the positions beyond the current rating at salary grade 13.

Ms. Lamberton argued that although the appellants' had compared their duties and the level of their responsibilities with those of the Safety Auto Mechanics, it was important to understand how those positions were classified. She argued that more than ten years ago, the Auto Mechanics at the Department of Safety had been allocated at salary grade 13 and that they had requested upgrading to salary grade 15. She said that when the Division of Personnel denied that request, the mechanics appealed the decision to the now abolished Personnel Commission. The Commission granted the appeal in part, creating a new classification of Safety Automotive Mechanic and ordering the positions reallocated to salary grade 14. She said that although the Division of Personnel disagreed with the Commission, in order to arrive at the new salary grade,

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it was necessary for the Division of Personnel to adjust the points assigned to the various classification factors. She argued that in completing a review of the Navigational Mechanic, the Division of Personnel was under no obligation to duplicate the points spread if it did not truly reflect the duties and responsibilities of the positions under review.

Ms. Lamberton argued that the appellants are not responsible for "supervision" as defined by the Evaluation Manual or the classification plan. She said that although they may be responsible for providing instruction or assigning a task to a seasonal laborer, that does not fall under the definition of "supervision" as managing functional activities of a unit or planning and evaluating the work of subordinates. She argued that the appellants do not have regular supervisory responsibilities that would warrant a reallocation of that factor. She also noted that in the classification questionnaires submitted with the request for reallocation, the appellants offered no evidence that they had supervisory responsibility or authority for other maintenance personnel or marine patrol employees.

Ms. Lamberton argued that the Board should not confine its review to the five factors in dispute, but should look at and consider all of the factors used in determining the appropriate classification and salary grade for positions when they are reviewed. She argued that the current classification recognizes that these are responsible positions

After considering the evidence, argument and offers of proof, the Board made the following findings of fact and rulings of law:

1. The duties and responsibilities assigned to the positions of Navigation Maintenance Mechanic have shown no significant change in purpose, scope, complexity or conditions that would warrant a change in the existing class specification.
2. The appellants' description of their duties for assigning tasks or providing instruction for certain seasonal laborers is more accurately described by level 2 than it is by level 1 for the

"Supervision" factor. However, the appellants offered no actual evidence of those responsibilities.

3. The Evaluation Manual defines "Working Conditions" as, "...the specific working environment and physical conditions to which an employee is exposed in performing required job duties and tasks. This factor measures the uncontrollable job elements which affect an employee's mental or physical capacity to complete job assignments in the normal course of work, including occupational hazards such as injury or disease..."
4. The appellants' duties are accurately described by level 3 for "Working Conditions" in that they are "expos[ed] to continuous physical elements or a number of disagreeable working conditions with frequent exposure to minor injuries or health hazards. The evidence does not support a finding that theirs is "an adverse working environment containing a combination of disagreeable elements which impact significantly upon the employee's capacity for completing work assignments."
5. The Physical Demands associated with the appellants' duties are accurately described as, "...medium to heavy work, including continuous physical exertion such as frequent bending, lifting or climbing."
6. The evidence does not support reallocation of this factor to level 5 which would entail "continuous physical exertion in a taxing work position such as lifting and dragging heavy objects or digging" more than 75% of their total working time as described by level 5 for the "Physical Demands" factor.
7. The factor "Communications" is defined by the Evaluation Manual as meaning, "...the nature and effectiveness of the interpersonal contacts of the position. This factor measures the requirements of the position to articulate and express the goals of the agency." It is not intended to reflect the technical complexity of the information exchanged.
8. The appellants' duties are accurately reflected by level 2 for "Communication," which, "Requires obtaining and exchanging information, referring inquiries to the appropriate source, or responding to questions from state employees or members of the general public."

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9. The Evaluation Manual defines "Independent Action" as meaning, "...the amount of decision making, initiative, and responsive effort required in originating new or more efficient work methods and procedures. This factor measures the type, frequency, and priority of well-defined alternatives and the extent to which instructions or policies guide action in selecting and applying strategies to enhance service delivery of the agency."
10. "Independent Action" does not measure how one performs normal tasks in the absence of a supervisor, and the appellants offered no evidence to support a finding that their responsibilities regularly entail more than, "...making a limited number of choices in selecting among alternative courses of action under supervisory guidance and in performing job functions according to a variety of prescribed policies or procedures," as described by the current allocation.

Rulings of Law

- A. "The employee or the department head, or both, affected by the allocation of a position in a classification plan shall have an opportunity to request a review of that allocation in accordance with rules adopted by the director under RSA 541-A, provided such request is made within 15 days of the allocation. If a review is requested by an employee, the director shall contact the employee's department head to determine how the employee's responsibilities and duties relate to the responsibilities and duties of similar positions throughout the state. The employee or department head, or both, shall have the right to appeal the director's decision to the personnel appeals board in accordance with rules adopted by the board under RSA 541-A. If the board determines that an individual is not properly classified in accordance with the classification plan or the director's rules, it shall issue an order requiring the director to make a correction."

Decision and Order

On the evidence, arguments and offers of proof, the Board voted unanimously to DENY the appeals of James Beach and David Arruda. In so doing, the Board found that their positions of

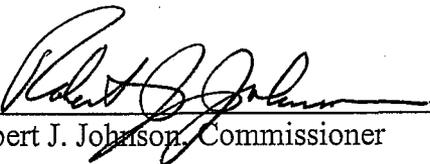
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Navigation Mechanic were reviewed and properly allocated by the Director of Personnel in accordance with the classification plan.

THE PERSONNEL APPEALS BOARD



Lisa A. Rule, Acting Chair



Robert J. Johnson, Commissioner



James J. Barry, Commissioner

cc: Thomas F. Manning, Director of Personnel, 25 Capitol St., Concord, NH 03301
Jean Chellis, SEA Field Representative, PO Box 3303, Concord NH 03302-3303
Claude Ouellette, Human Resources Administrator, Department of Safety, 10 Hazen Dr.,
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