

State of New Hampshire



PERSONNEL APPEALS BOARD
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Concord, New Hampshire 03301
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APPEAL OF MAUREEN KRYGER

Docket #93 -C-13
New Hampshire Retirement System

October 28, 1993

The New Hampshire Personnel Appeals Board (McNicholas, Johnson and Rule) met Wednesday, September 1, 1993, to hear the classification appeal of Maureen Kryger, an employee of the New Hampshire Retirement System. Ms. Kryger appeared pro se. Personnel Director Virginia Lamberton appeared on behalf of the Division of Personnel.

Ms. Kryger was appealing the Personnel Director's November 25, 1992 decision to upgrade her position from Supervisor II, salary grade 20, to Supervisor III, salary grade 22. At the time of the position review request, in September, 1992, the appellant had requested that her position be reclassified to Supervisor VII, salary grade 27. However, during the September 1, 1993 hearing before this Board, Ms. Kryger admitted that her agency's original reclassification request was unreasonable, and that her duties and responsibilities did not support reallocation of her position to salary grade 27. In the alternative, she proposed that the Board order the reclassification of her position to Supervisor V, salary grade 25. Ms. Kryger also asked the Board to find that the Personnel Director had improperly denied her request for reconsideration of the original classification decision.

At the conclusion of the hearing on the merits of Ms. Kryger's appeal, the Director of Personnel submitted Requests for Findings of Fact and Rulings of Law. Requests for findings of fact and rulings of law are intended to simplify the issues under review and assist the Board by focusing on those factual matters in dispute. Most of the Division of Personnel's requests are compound and lengthy, making them difficult to grant or deny, in whole or in part. For instance, proposed finding #7 covers everything from the Division's description of the defects in the Retirement System's January 14, 1993 reconsideration request, to the propriety of the Director's allocation decision, including a discussion of all the evaluation factors considered by both the appellant and the Director of Personnel in reviewing her position. Therefore, the Board shall treat the Division's proposed findings as a written summary of the Director's testimony, and will make its own findings of fact on the evidence offered by the parties.

On September 29, 1993, Ms. Kryger, Mr. Daneault and Mr. Descoteau submitted to the Board a document entitled, "Request for leave to file a response to testimony and a Request for Findings of Fact and Rulings of Law filed by the Director of Personnel at a hearing held before the Personnel Appeals Board on September 1, 1993, docket #93-C-13". That request is denied. The Board's rules clearly state that at the close of the hearing, either party may submit

requests for findings of fact and rulings of law [See, Per-A 204.04 (a)]. Inasmuch as the requests filed by the director have no evidentiary value, and the appellant was provided ample opportunity to reply to or rebut statements made by the Director of Personnel at the hearing on the merits, the appellant suffers no prejudice by the Board's refusal to hold open the record of the hearing and allow additional written testimony to be submitted by the appellant.

By letter dated September 14, 1992, Maurice L. Daneault, Assistant Executive Secretary to the Retirement System, forwarded a request for reclassification of Ms. Kryger's position to the Division of Personnel. In his letter, Mr. Daneault stated that Ms. Kryger had been required to assume detailed and complicated rulemaking responsibilities, causing her to be involved frequently with legal and actuarial professionals. He also indicated that Ms. Kryger had been required to assume many of the Assistant Executive Secretary's own duties and responsibilities, including "assuring the accuracy of the retiree data base, designing benefit statements and testing and approving mainframe benefit calculation assignments". With that letter, Mr. Daneault also forwarded Ms. Kryger's completed Position Classification Questionnaire, current and proposed Supplemental Job Descriptions, and his recommendation that Ms. Kryger's position be reclassified from Supervisor II (salary grade 20) to Supervisor VII (salary grade 27).

The Division of Personnel undertook a review of the position, including a desk audit which was performed by an Analyst from the Division of Personnel on November 4, 1992. By letter dated November 25, 1992, the Director of Personnel informed Mr. Daneault that she had decided to reclassify Ms. Kryger's position to Supervisor III, salary grade 22, based on three new accountabilities on her job description. Those additional duties included analyzing proposed legislation for administrative consistency to existing programs and objectives, and making recommendations to plan administrators; recommending policy changes to upper levels of management in the System; and developing, analyzing and implementing operating procedures pertaining to member benefit services.

By letter dated December 16, 1992, addressed to the Director of Personnel, Mr. Daneault requested reconsideration of that decision. Apart from offering to supply additional documentation to support reallocation of Ms. Kryger's position beyond salary grade 22, Mr. Daneault simply stated that the Retirement System continued to believe it had demonstrated that Ms. Kryger's work assignments warranted reclassification of her position to Supervisor VII. On December 31, 1992, the Director responded to Mr. Daneault, indicating that his reconsideration request did not meet the standard set forth in the Personnel Rules and would not be considered.

The Board concurs with the Director in regard to the request for reconsideration. Per 304.01 (a) and (b) of the Rules of the Division of Personnel state:

(a) If the appointing authority or the employee is not satisfied with the director's decision concerning the allocation of a position, the appointing authority or the employee may, within 15 calendar days of the date of the director's letter transmitting that decision:

- (1) File a written request for reconsideration with the director; or
- (2) File an appeal with the personnel appeals board.

(b) The request for reconsideration shall specify why a reconsideration is necessary by identifying only those facts which the appointing authority or the employee believes were not considered by the director.

The Personnel Rules do not provide for any extension of the time allowed for filing a request for reconsideration, although the Rules of the Personnel Appeals Board do allow appellants twenty days from the filing of a classification appeal to submit supporting documentation. Specifically, Per-A 208.02 (a) of the Personnel Appeals Board's procedural rules states:

Within twenty (20) days after filing his appeal, the appellant shall file with the Board an original and three (3) copies of any evidence (including all documents or affidavits) that he believes support his position together with any written argument that he wishes the Board to consider. This submission shall cover all aspects of the appeal.

If the appellant was seeking information concerning reconsideration by the Director of her original classification decision, she should have referred to the rules of the Division of Personnel, specifically, PART Per 304 of the Rules of the Division of Personnel. Those rules provide that within fifteen calendar days of the date of the Director's decision concerning the allocation of a position, the employee or appointing authority may file a written request for reconsideration, setting forth specifically those facts which the employee or agency believed the Director failed to consider in reaching her original allocation decision.

On the merits of Ms. Kryger's appeal, the Board noted that the parties agree Ms. Kryger's job assignments do not warrant reclassification of her position to Supervisor VII, and the Director of Personnel was correct in refusing to reclassify the position to that level and salary grade. Although the parties are also in agreement that the position is more appropriately classified as a Supervisor III than a Supervisor II, the appellant continues to argue that her position would be more accurately classified as a Supervisor V, salary grade 25.

By definition, the basic purpose of the Supervisor V classification is "To supervise subordinate employees in the development or implementation of agency program objectives, policies and procedures," whereas the basic purpose of the Supervisor III classification is "To coordinate and implement work assignments for subordinate employees in an agency program or unit." The appellant supervises clerical employees and retirement counselors, with overall responsibility for certification of member benefits within the Retirement System. The Board does not find that the appellant's responsibilities include supervising positions responsible for "...the development or implementation of agency program objectives, policies and procedures" described by the Supervisor V classification. She is not responsible for developing, implementing, analyzing and evaluating program objectives and policies, which would be characteristic of a Supervisor V position, although she is responsible for implementing the rules, regulations and policies of the Retirement System in supervising the certification and payment of member benefits, consistent with the class specification for Supervisor III.

Upon review of the class specifications for both Supervisor III and Supervisor V, the Board found that many of the evaluation factors are rated at the same level, including Knowledge, Impact, Supervision, Working Conditions, Physical Demands and Communications. Those which differ between Supervisor III and Supervisor V are Skill, Complexity and Independent Action. The Board will only address those factors, as there appears to be agreement between the Director and the appellant on the other six factors.

SKILL:

Supervisor III: Requires skill in developing formats and procedures for special applications OR in investigating and reviewing the use of equipment and data for a specialized function.

Supervisor V: Requires skill in analyzing data, policy and procedures OR in using equipment in order to arrive at logical conclusions or recommendations.

It could be argued that Ms. Kryger is using computer equipment to arrive at logical conclusions and recommendations on benefits payments. However, the Board found that the definition of skill contemplated by this level would not include certification of computerized data produced by the Retirement Systems computer equipment and software applications.

COMPLEXITY:

Supervisor III: Requires coordinating a combination of diverse job functions in order to integrate professional and technical agency goals. This level also requires considerable judgment to implement a sequence of operations or actions.

Supervisor V: Requires evaluating a combination of wide-ranging job functions to determine work procedures, to solve problems, and to reach conclusions by applying analytical, technical, or scientific thinking. This level also requires planning policies and long-term strategies, drawing conclusions based on available criteria, and evaluating the effectiveness of program objectives.

The Board did not find that Ms. Kryger's benefits administration functions rose to the level of the Supervisor V classification. The "analytical, technical, or scientific thinking" which is involved in benefits administration at the Retirement System are the responsibility of actuarial and legal professionals on whom Ms. Kryger relies in performing the duties of her position. Work procedures and problem solving are largely a product of applying the diverse benefits determination criteria found in the statutes and administrative rules, and would best be described as requiring coordinating a combination of job functions to integrate professional and technical agency goals as set forth in the specification for Supervisor III.

INDEPENDENT ACTION:

Supervisor III: Requires objective assessment in analyzing and developing new work methods and procedures subject to periodic review and in making decisions according to established technical, professional or administrative standards.

Supervisor V: Requires independent judgment in planning and evaluating work procedures and in supervising the development of professional, technical and managerial standards under administrative direction and according to broad departmental guidelines.

Ms. Kryger is not responsible for the development of professional, technical or managerial standards for, or associated with, Retirement System activities. Ms. Kryger may be responsible for developing work methods for a small unit within the System, and for assuring that work performed by that unit is accomplished in accordance with the standards adopted by the Board of Trustees and the professional disciplines associated with the System. Clearly, her responsibilities do not rise to the level of independent action described by the Supervisor V classification.

Over-all, the Board found that Ms. Kryger's position responsibilities are reasonably reflected by the specification for Supervisor III. Based on its knowledge of the classification plan, the only other specification which the Board believed to be more suitable was the specification for Program Specialist II, salary grade 20.

The "Basic Purpose" outlined in the specification for the classification of Program Specialist II is as follows:

To research and review program regulations and policies and to coordinate the development of policies, informational releases, or work procedures for state or federal programs.

The "Characteristic Duties and Responsibilities" for that classification are as follows:

Researches policy and planning issues and makes preliminary recommendations for revision.

Coordinates with professional staff in other work units concerning the development of projects and programs.

Researches and prepares reports which are used to recommend change in program policy and procedures.

Designs and modifies agency forms and instructions for staff use.

Organizes, codes, and tracks rules through the rulemaking process to comply with the Administrative Procedures Act.

Collects and analyzes data in order to develop reports and make recommendations for necessary changes in operating procedures.

Researches and responds to questions from other staff and agencies pertaining to established policy and rules.

The single difference in "Distinguishing Factors" between the Supervisor III and Program Specialist II specifications is in the "Communications" factor.

COMMUNICATIONS:

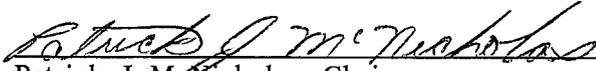
Supervisor III: Requires reviewing summaries and reports and making management level decisions to solve problems or to achieve work objectives as well as articulating and expressing those solutions and goals. This level also requires formal presentations of solutions and goals to employees and the general public to increase the responsiveness of the agency toward the demands of its client system.

Program Specialist II: Requires summarizing data, preparing reports and making recommendations based on findings which contribute to solving problems and achieving work objectives. This level also requires presenting information for use by administrative-level managers in making decisions.

While the Board is not entirely convinced that Ms. Kryger is responsible for making management level decisions to solve problems or to achieve work objectives, the appellant's responsibilities for appearing before hearings officers may support allocation of the communications factor at the Supervisor III level. Inasmuch as that factor was not in dispute, and neither party suggested that the position would be more appropriately placed in the Program Specialist class series, the Board is not recommending that change.

On all the evidence, the Board found that the appellant failed to sustain her burden of proving that her position is improperly classified. Accordingly, the Board voted unanimously to deny her appeal.

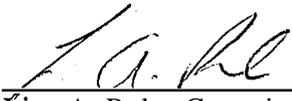
THE PERSONNEL APPEAL BOARD



Patrick J. McNicholas, Chairman



Robert J. Johnson, Commissioner



Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Maureen Kryger, Supervisor of Benefits Administration
Harry Descoteau, Executive Secretary, N.H. Retirement System