State of New Hampshire

PERSONNEL APPEALS BOARD
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APPEAL OF BERT SCOTT

Docket #95-C-3

Department of Employment Security

January 30,1996

The New Hampshire Personnel Appeals Board (McNicholas, Bennett and McGinley) met on Wednesday, October 18, 1995, under the authority of RSA 21-I:57, to hear the classification appeal of Bert Scott. Mr. Scott, an employee of the Department of Employment Security, was represented at the hearing by Charles Bradley, III, Counsel for the Department of Employment Security. Virginia Lamberton, Director of Personnel, appeared on behalf of the Division of Personnel. Mr. Scott was appealing the Division of Personnel's August 8, 1994, decision and October 14,1994, reconsideration decision which reclassified Mr. Scott's position from Building Maintenance Supervisor, salary grade 14, to Plant Maintenance Engineer I, salary grade 16. Mr. Scott and the Deparlment of Employment Security had asked the Division of Personnel to reclassify the position to a new classification of Property Manager, salary grade 20. At the hearing, Mr. Bradley suggested that if the Board were opposed to the creation of a new classification, the appellant would not object to having his position reclassified to Plant Maintenance Engineer II (salary grade 18) or III (salary grade 20).[1]

In oral argument, Mr. Bradley asserted that the review completed by the Division of Personnel had assigned too little weight to the factor of "Complexity" in its analysis of Mr. Scott's duties. Specifically, Mr. Bradley argued that Mr. Scott must function as the Clerk of the Works for all New Hampshire Employment Security building projects involving both new construction and renovation. He argued that in other State agencies, construction projects are managed by the Bureau of Public Works in the Department of Transportation. He said that Employment Security is the only agency providing its own staff as Clerk of the Works. Mr. Bradley also argued that in an effort to reduce the number of repetitive motion injuries in the work place and claims for compensation from DES employees, the appellant had assumed responsibility for "ergonomics analysis" of the workplace. He argued that these assignments, when coupled with Mr. Scott's contribution to management level decision-making, warranted a reallocation of his position from salary grade 14 to salary grade 20, not to salary grade 16.

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[1] RSA 21-I:46 VIII-a states, "The Board shall be limited to existing job titles within the classification plan when rendering decisions regarding appeals of denial of reclassification. The board is explicitly prohibited from creating new job classifications or job titles."

Mr. Bradley argued that the only difference between the classifications of Plant Maintenance Engineer I, the class to which Mr. Scott's position was upgraded, and Plant Maintenance Engineer II is in the "Complexity" factor. The Plant Maintenance Engineer I classification is rated at the third level for this factor, and the appellant has suggested that the fourth level would be more appropriate in light of Mr. Scott's responsibilities. Mr. Bradley argued that Mr. Scott is responsible for air quality monitoring at thirteen different DES sites, and for providing rapid response to air quality complaints. He argued that Mr. Scott coordinates work of engineers, architects, designers and mechanics in the construction and renovation of facilities, and that he is also responsible for searching out properties for purchase or lease as DES offices. He said that Mr. Scott also represents the Property Management Work Unit at managerial and supervisory meetings. Mr. Bradley asserted that Mr. Scott would also be responsible at a future date for the electrical systems for a local area network computer system within the Department of Employment Security.

Ms. Lamberton stated that the position occupied by Mr. Scott reports to Ed Lewis, whose position was reclassified in 1992 to Supervisor V, and that during his position review, the Division of Personnel was informed that Mr. Lewis had responsibility for building acquisition, leases, contracts, specifications and construction. She said that although Mr. Scott may assist Mr. Lewis in performing those accountabilities, the actual job functions have already been assigned to Mr. Lewis' position.

Ms. Lamberton asserted that in May of 1994, the Department of Employment Security had requested reclassification of two Maintenance Supervisor positions, including the one occupied by Mr. Scott. The first of the two positions directly supervises six or seven employees and is responsible for maintenance in fifteen Employment Security office locations. Mr. Scott's position has no supervisory responsibility and is not required to perform any maintenance activities, but does handle new construction projects. Ms. Lamberton argued that even if Mr. Scott's position were more complex than the other position, it has no responsibility for supervising, directing or evaluating other employees.

Ms. Lamberton argued that the classification of Plant Maintenance Engineer I adequately addresses each of the issues raised by the Department of Employment Security in its classification request. She argued that during the review of Mr. Scott's position, her Division looked at the preponderance of his duties and the scope of his responsibilities in determining that his position was properly classified as a Plant Maintenance Engineer I. She said that if the Board were to adopt the appellant's theory that his position should be upgraded based upon an analysis of the "Complexity" factor, the Board would also have to consider whether or not the remaining evaluation factors were accurately assessed. She argued that if each of the evaluation factors had been weighed individually, rather than looking at the preponderance of the appellant's duties as compared to the duties listed in the class specifications, the resulting point allocation might not support classifying his position at the level of Plant Maintenance Engineer I. To illustrate the point, she noted that the classification of Plant Maintenance Engineer I receives points for supervision, although the appellant does not

directly supervise any classified employees. The specification for Plant Maintenance Engineer I describes the level of supervision for that class as requiring direct supervision of "...other employees doing work which is related or similar to the supervisor, including scheduling work, recommending leave, reviewing work for accuracy, performance appraisal, or interviewing applicants for position vacancies." She argued that any increase in the "Complexity" attribute would have to be offset by a reduction in the "Supervision" factor.

Ms. Lamberton argued that the State was fortunate to find an employee of Mr. Scott's caliber, but that the classification system could not be used to replace merit pay for exceptional employees. She noted that in the absence of a merit pay system, employers often look to the classification system to compensate or reward employees whose skills and abilities exceed the responsibilities of the positions they occupy. She argued that the classification system can only address the characteristic duties and responsibilities of a position, not the talents of the incumbent occupying that position, and that Mr. Scott's duties and responsibilities most closely resembled those for the classification Plant Maintenance Engineer I.

In the Technical Assistance Manual, level 4 for the "Complexity" factor, which the appellant believes is appropriate to his position, "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." (Emphasis added) The Board understands the value of Mr. Scott's contributions to the daily operation of the Department, and that satisfactory performance of his responsibilities requires him to coordinate a sequence of actions or operations involving State, federal and local codes associated with building construction or renovation. However, the Board believes that Mr. Scott's role in the acquisition, construction and development of office facilities for the employees of the Department of Employment Security represents operational, not professional and technical agency goals. Furthermore, neither the proposed supplemental job description nor the supplemental job description which was current at the time of the review make reference to Mr. Scott having responsibility for building acquisition or negotiation of leases.

The Board also was not persuaded that the appellant is actually responsible for "ergonomics analysis" in the work place. Although the job description which was current at the time of the position review stated that the appellant, "Coordinates with local office managers and section supervisors in rearranging office equipment, office panels and desks, plus related furniture to assist in meeting the changing office needs," the Board did not find that those tasks rose to the level of "ergonomics analysis," nor did the Board find a similar statement of accountabilities in the proposed supplemental job description. The appellant's classification questionnaire also contains no information to indicate that Mr. Scott is performing ergonomic analysis, Finally, although the appellant submitted documents describing work area modifications which he had recommended (Appellant's Request for Reconsideration, Attachment A), none of the minimum qualifications contained in the proposed supplemental job description require education, training or experience in work site analysis of this nature.

On the evidence and argument, the Board found that the appellant's assignments do not rise to the fourth level for the "Complexity" factor. The Board found that the description of duties contained in Mr. Scott's classification questionnaire and his proposed supplemental job description are adequately described by the third level, which is defined as requiring "...a combination of job functions to establish facts, to draw daily operational conclusions, or to solve practical problems" and "...providing a variety of alternative solutions where only limited standardization exists."

The "Supervision" factor measures a position's responsibilities for "training, guiding, and directing the efforts of state employees, as well as managing the functional activities of an organizational unit." That factor also measures "...organizing, planning and scheduling the work of subordinates, including the responsibility for performance appraisal, in order to achieve organizational goals." The appellant's position is currently allocated at level three for "Supervision" which is defined as follows: ."Requires direct supervision of other employees doing work which is related or similar to the supervisor, including scheduling work, recommending leave, reviewing work for accuracy, performance appraisal, or interviewing applicants for position vacancies."

According to the appellant's Classification Questionnaire, Mr. Scott does not supervise any classified employees. However, he indicated that he has supervisory responsibilities which include meeting with contractors, vendors, landlords and local office managers to monitor the design and construction of building and renovation projects, and to address problems with safety codes, air quality, leases and renovations. By definition, those responsibilities are not supervisory in nature and may not be used to justify allocating the appellant's position at the third level for the "Supervision" factor. In a factor by factor analysis of Mr. Scott's position, those responsibilities are more accurately described as interpersonal contacts under the "Communication" factor instead.

Inasmuch as the Board did not hear oral argument on any of the evaluation factors other than "Complexity" and "Supervision," the Board did not make specific findings for each of the evaluation factors. However, based on the information submitted by the appellant in support of his request for reclassification, the Board was not persuaded that the appellant's accountabilities would support a salary grade assignment higher than salary grade 16.

In light of the appellant's assertion that his responsibilities are not accurately described by the specification for Plant Maintenance Engineer I, the Board compared the "Characteristic Duties and Responsibilities" on the specification with the duties listed on the appellant's classification questionnaire and proposed supplemental job description. The Board also reviewed the Occupational Groupings by Class Title contained in the Technical Assistance Manual, to determine if it might find a more descriptive classification at an appropriate salary grade for the appellant's duties and responsibilities.

The Board found that the classification whose characteristic duties and responsibilities most

closely resembled the accountabilities on the appellant's proposed supplemental job description was that of Construction Foreman. However, after reviewing the "Distinguishing Factors" and the statement of "Minimum Qualifications," the Board found that the Construction Foreman specification, if selected to describe the appellant's position, would continue to mischaracterize his supervisory responsibilities, and would improperly describe the appellant's level of "Independent Action." No other classification was identified which more accurately described the appellant's duties, or his level of responsibility, than that of Plant Maintenance Engineer I.

On the evidence and oral argument, the appellant: failed to persuade the Board that his work assignments support an increase from salary grade 14 to salary grade 20, or that his duties and responsibilities warrant reallocation above salary grade 16. The appellant also failed to suggest a more appropriate classification than that of Plant Maintenance Engineer I. Accordingly, the Board voted unanimously to deny Mr. Scott's appeal.

THE PERSONNEL APPEALS BOARD

Patrick J. McNicholas, Chairman

Mark J. Bennett, Commissioner

Karen S. McGinley, Commissioner

cc: Virginia A. Lamberton, Director of Personnel
Charles Bradley, III, Esq., Department of Employment Security