

State of New Hampshire



WPPID721

PERSONNEL APPEALS BOARD

State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

Response to Appellants' Request for Reconsideration
Appeal of Mary Bartlett and Deborah Marbel.
Department of Employment Security

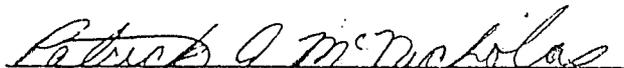
Docket #91-0-10

dated April 3, 1991

The New Hampshire Personnel Appeals Board (McNicholas, Johnson and Bennett) met Wednesday, April 3, 1991, to consider the appellants' March 18, 1991 request for reconsideration of the Board's February 28, 1991 decision in the above-captioned appeal. On March 22, 1991, the Department of Employment Security filed its objection, asking that the Board affirm its decision and deny the Motion for Reconsideration.

The Board, in consideration of the record before it, voted unanimously to deny the appellant's request for reconsideration and to affirm its order of February 28, 1991.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


Robert J. Johnson


Mark J. Bennett

cc: Virginia A. Vogel, Director of Personnel
Joan N. Day, Human Resource Coordinator, Dept. of Employment Security
Thomas F. Hardiman, SEA Director of Field Operations
Civil Bureau, Attorney General's Office

State of New Hampshire

WPPID701



PERSONNEL APPEALS BOARD

State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF MARY BARTLETT AND DEBORAH MARBEL
Docket #91-O-10

Department of Employment Security

February 28, 1991

The New Hampshire Personnel Appeals Board (McNicholas, Johnson and Bennett) met Wednesday, February 13, 1991, to consider the above captioned appeal filed on the appellants' behalf by Thomas F. Hardiman, SEA Director of Field Operations. In his October 4, 1990 request for a hearing, Mr. Hardiman alleged that the appellants had been denied reclassification under the guise of a freeze on position reallocations. He argued that the appellants, who are classified as Clerk Interviewers (salary grade 8) had been informed by the Department of Employment Security

"...that they would be upgraded to Word Processor Operator II [salary grade 11] once they began to use the word processor. This function now takes place in the Conway and Lebanon offices. The equipment has just been put in place but the process of reallocating these positions was in place well before any freeze went into effect. Therefore, the use of the freeze as an argument for not reallocating these two employees is not valid. It is also a case of the employees working on assignments that do not fall within their job specifications. They are working at a higher labor grade than their current position is assigned."

Mr. Hardiman concluded that refusal to adjust their job titles and salary grades is a violation of Per 304.01:

"No employee in the state classified service shall receive a salary greater than the maximum nor less than the minimum for the class established by the compensation plan."

On October 11, 1990, the Department of Employment Security filed a Motion to Dismiss the above-captioned appeal. In support thereof, the Department argued that the primary function of Clerk Interviewers as listed on both the class specification and supplemental job description is not that of a word processor. The Department further argued that the class specification for Word Processor Operator II requires that the incumbent be responsible for "supervision over staff assigned to the unit with responsibility for training other operators...", responsibilities which are not assigned to the appellants. The Department further stated, "At no time were the two positions in Conway and Lebanon, already receiving salary grade 8 pay, included in this reclassification process."

RSA 21-I:58, which the appellants cite as the authority under which the Board might grant their appeal, specifically excludes appeals related to classification and allocation of positions:

"Any permanent employee who is affected by any application of the personnel rules, except for those rules enumerated in RSA 21-I:46, I and the application of rules in classification decisions appealable under RSA 21-I:57, may appeal to the personnel appeals board. . . ." (Emphasis added)

Clearly, Ms. Bartlett's and Ms. Marbel's appeal of the position title and salary grade at which their positions are allocated is a classification decision within the meaning of RSA 21-I:57, which provides that "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." ¹

.....
1/ Chapter 209:4 of the Laws of 1990, provides that:

Notwithstanding any other provision of law, the director of personnel shall not consider any requests for reclassification or reallocation until July 1, 1991.

APPEAL OF MARY BARTLETT AND DEBORAH MARBEL
Docket #91-O-10
page 3

The Board's own rules related to classification and evaluation appeals require that:

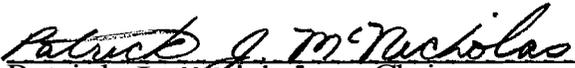
"Within twenty (20) days after filing his appeal, the appellant shall file with the Board an original and three (3) copies of any evidence (including all documents or affidavits) that he believes support his position together with any written argument that he wishes the Board to consider. This submission shall cover all aspects of the appeal." [Per-A 208.02(a) N.H.C.A.R.]

Appellants have failed, through competent evidence or affidavit, to prove that they had requested a review of their positions, that the Department had made such request on their behalf, or that any such request was received by the Director of Personnel prior to enactment of HB 1225 (Chapter 209, Laws of 1990).

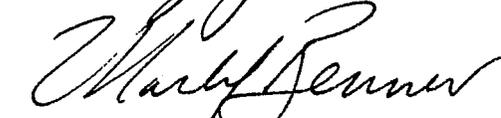
Absent a completed request for reclassification received by the Director of Personnel prior to June 5, 1989, there is no authority for the Director of Personnel or the Personnel Appeals Board to grant the relief which appellants have requested.

In consideration of the foregoing, the instant appeal is dismissed.

THE PERSONNEL APPEALS BOARD


Patrick J. McNicholas, Chairman


Robert J. Johnson


Mark J. Bennett

cc: Virginia A. Vogel, Director of Personnel
John Ratoff, Commissioner, Dept. of Employment Security
Joan N. Day, Human Resource Coordinator, Dept. of Employment Security
Thomas F. Hardiman, SEA Director of Field Operations