

B-14



STATE OF NEW JERSEY

In the Matter of Linda Bonnette,
Department of Environmental
Protection

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

CSC Docket No. 2015-2625

Classification Appeal

ISSUED: JUN 19 2015 (JET)

Linda Bonnette appeals the attached decision of the Division of Agency Services (Agency Services) that the proper classification of her position with the Department of Environmental Protection is Environmental Scientist 2. The appellant seeks a Research Scientist 1, Chemistry classification.

The record in the present matter establishes that at the time the appellant filed her request for a classification review, her permanent title was Research Scientist 2, Chemistry. The appellant's position is located in the Division of Water Supply and Geoscience and she does not have any supervisory duties. The appellant sought a reclassification contending that her position would be more appropriately classified as a Research Scientist 1, Chemistry. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties that she performed. Agency Services reviewed all documentation supplied by the appellant including her PCQ. Based on its review of the information provided, including the unit organization chart, Agency Services concluded that the appellant's position would be properly classified as an Environmental Scientist 2, effective February 8, 2014.

On appeal, the appellant maintains that she performs the duties of a Research Scientist 1, Chemistry, or in the alternative, a Research Scientist 2, Chemistry. Specifically, the appellant asserts that she is a chemist and the majority of her assignments are based on the analytical data her unit receives from laboratories and municipal water systems. The appellant adds that the primary function of her unit is conducting chemical analysis of drinking water from public

water systems and private sector water companies. Such water assignments include the evaluation of potable water and public water systems that serve drinking water. Further, her duties include verifying data quality, invalidating data, investigating unusual data, and reviewing raw data such as mass spectra and chromatographs. The appellant adds that such information is reviewed in compliance with the federal Safe Drinking Water Act. She also is responsible for contacting quality assurance directors, laboratory managers, analysts, and chemists to obtain information and data, and she frequently consults with other research scientists in the Office of Quality Assurance (OQA). In addition, the appellant asserts that her chemistry background makes her a valuable resource for various types of projects and committees. The appellant explains that she serves as a member of the testing subcommittee for the Drinking Water Quality Institute (DWQI),¹ which is tasked with developing a practical quantitation level for perflourinated nonanoic acid. Moreover, the appellant is the main contributor of reports for the other subcommittee members, and in 2014, she presented a draft of the practical quantitation level (PQL) that is required for DWQI.

Additionally, the appellant states that the classification determination only includes examples of routine tasks that she performs. She adds that examples of her research assignments are not included in the findings. Further, her duties do not include water supply control, load allocations, pollution control, water quality monitoring, water quality management, or evaluating impacts on aquatic life and ecosystems. The appellant adds that employees currently serving as a Research Scientist 2 are not responsible for conducting scientific experiments, developing breakthroughs, or establishing new discoveries. In this regard, they audit and certify laboratories and approve analytic methods. In addition, the appellant contends that the job specifications for Research Scientist 1 and 2 do not establish that conducting scientific experiments, developing breakthroughs, establishing new discoveries, and developing innovative designs, theories and methods are the proper duties for those titles. Further, the appellant asserts that the definitions for the titles do not require supervision of employees. In this regard, the appellant explains that the job specifications for the titles only indicate that incumbents in the titles typically supervise and direct activities of subordinate staff. The appellant avers that she is aware of several individuals currently serving as Research Scientists 1 who are not responsible for supervision of employees, and her supervisor stated in January 2014 that she was not required to supervise employees. Moreover, the appellant questions how the supervisory requirements in the job specifications apply to her situation.

¹ The appellant notes that, based on the classification determination, she would be the only environmental scientist serving on the committee. She adds that her peers include other research scientists.

CONCLUSION

The definition section of the job specification for Research Scientist 1, Chemistry states:

Under general supervision of a division director or other supervisory official in a state department, institution or agency, independently initiates and coordinates a research or functional program in a specified professional field; may supervise lower levels of Research Scientists and other technical staff; manages high level technical projects; reports results to designated officials for inter- and intra-agency response; does other related duties as required.

The definition section of the job specification for Research Scientist 2, Chemistry states:

Under general supervision of a Research Scientist 1 or other supervisory official in a state department, institution, or agency, conducts research or participates in functional programs in a specified professional field; assumes administrative, scientific, and supervising duties as delegated; heads complex projects and makes recommendations to supervisor; does other related duties as required.

The definition section of the job specification for Environmental Scientist 2 states:

Under the direction of an Environmental Scientist 1, or other supervisory officer in a State department, institution, or agency, assists in assigned scientific projects and programs in the field of environmental science and may be charged with the responsibility for an assigned phase of such activity; does other related duties.

In the instant matter, Agency Services properly determined that the appropriate classification of the appellant's position is Environmental Scientist 2. It is clear that the majority of the appellant's duties do not include conducting scientific research and experiments, developing and implementing original theories, identifying breakthroughs, and directing staff activities. The appellant only indicated that 25% of her duties constitute research projects. As such, the appellant's position does not primarily have responsibility for conducting scientific research. Contrary to the appellant's assertions, interpreting data and researching laboratory methods are not the same as conducting higher level scientific research. The appellant indicated on her PCQ such things as being responsible for queries of

various water quality parameters and laboratory submissions to evaluate the quality of the public water system's drinking water test results. However, the majority of the duties listed on the PCQ, such as reviewing water test results for correctness, identifying errors, isolating instances of non-compliance of water systems with regulations, conducting laboratory audits, water treatment plant inspections, interviewing technicians, reviewing documents, investigating unusual data, presenting evidence of data falsification and violations to management, approving and denying request from public water systems, and responding to inquiries, are functions that assist or support a scientific project. In this regard, her supervisor indicated that her duties are closely tied to analytical methods and regulations used to analyze data as published by the Safe Drinking Water Act regulations. Therefore, even assuming the appellant supervised subordinate staff, her duties are consistent with those of the Environmental Scientist title series.

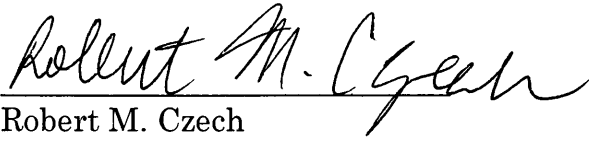
Although the appellant argues that her duties are consistent with those performed by a Research Scientist 1, or in the alternative, a Research Scientist 2, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. In this regard, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized. Additionally, the fact that other employees' positions may be classified in the Research Scientist title series does not evidence that the appellant's position should be Research Scientist 1, Chemistry. In this regard, a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified. *See In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995); *In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided March 28, 1996). *See also, In the Matter of Lorraine Davis, Office of the Public Defender* (Commissioner of Personnel, decided February 20, 1997), *affirmed*, Docket No. A-5011-96T1 (App. Div. October 3, 1998).

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 17th DAY OF JUNE, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
& Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachment

c: Linda Bonnette
Deni Gaskill
Kenneth Connolly
Joseph Gambino



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
AGENCY SERVICES
P.O. Box 313
Trenton, New Jersey 08625-0313

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

February 11, 2015

Ms. Linda Bonnette



Re: Classification Appeal
Research Scientist 2, Chemistry
Position# 650828
CPM# 02140314
Employee Number# [REDACTED]

Dear Ms. Bonnette:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above. You are appealing the current classification of your position, Research Scientist 2, Chemistry. You contend that your current duties and responsibilities are consistent with those of a Research Scientist 1, Chemistry.

This office has conducted a review of the submitted information, including the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR) form; your statements; and the statements of your supervisor, division director, and appointing authority. A telephone audit was performed with you and Sandra Krietzman, Bureau Chief. Your supervisor, Philip Royer, Section Chief has been on a leave of absence, and in his absence you have been reporting directly to Ms. Krietzman.

Organization:

The position is located in Division of Water Supply and Geoscience. You are supervised by Philip Royer, Section Chief (55985, S30). You have no supervisory responsibility.

Findings of Fact:

- Independently provides technical and scientific expertise to three section chiefs, assistant director and other division staff to advance Safe Drinking Water (SDW) compliance determinations or to establish policy or propose regulations for the SDW program.

- Reviews and compares data from different laboratories to discover reporting errors. Provides interpretation and summary of all the orthophosphate and phosphorus water results from three laboratories. Determines if the total coliform data should be disqualified due to the presence of chlorine residual in the samples of a water system that does not disinfect. Conducts investigations under time constraints.
- Independently initiates projects related to water quality sampling. These projects/studies clarify regulatory requirements, and outline procedures for determining analytical standards. Provides procedures for water systems and laboratories to invalidate data, and provides information to laboratories on how analytical results must be submitted for purposes of SDW compliance based on the federal and state Safe Drinking Water regulations.
- Independently developed templates and prepares an SOP to assist with the data entry. Ensured the data is entered correctly.
- Acts as the Quality Assurance representative for the Water Supply Operations Element (WSOE) and the Safe Drinking Water permitting section. Investigates unusual or suspect data and requests additional information for verification. Presents evidence of data falsification or gross violations of reporting requirements to higher management. Independently approves or denies request of public water systems to invalidate drinking water compliance data.
- Responds to the Quality Management Plan inquiries by the Office of Quality Assurance (OQA). Maintains and oversees all SOPs and Quality Assurance Project Plans generated by WSOE staff.
- Functions as SDW liaison and scientific consultant to the New Jersey certified drinking water laboratories. Tracks the certification status of drinking water laboratories. Performs spot checks to ensure that laboratory is certified and the water quality analysis is being reported.
- Verifies the technical or scientific basis for allowing the changing of previously reported data in certain cases where microbiological, nitrate, lead and copper results are involved. Independently manages the in-house field sampling program data for the WSOE which includes receiving, reviewing, maintaining, and distributing water data results from water samples collected by the element's field sampling program to support regulatory decisions and permit approvals.
- Presents updates and relevant information at monthly Environmental Laboratory Accreditation Committee. Holds and conducts a biannual one day seminar, NJ Safe Drinking Water Roundtable, for NJ certified drinking water laboratories.

- Performs evaluations and provides reports and information to committees and organizations such as the NJ Drinking Water Quality Institute (DWQI) and the NJ Standards Consistency Committee. Independently conducts SDW data evaluations by determining the extent of occurrence and concentration levels of various contaminants in NJ drinking water sources.
- Reviews and suggests revisions to established protocols for reporting requirements and procedures for the drinking water laboratories conducting analyses for new EPA rules (or revisions thereof) to ensure correct reporting. Reviews invoice charges, approve payments, manages purchase order balances and obtains additional funding for analytical testing by procuring price quotations from laboratories.

Review and Analysis:

The definition section of the specification for the title, Research Scientist 2, Chemistry (03165C, P28), states:

“Under general supervision of a Research Scientist 1 or other supervisory official in a state department, institution, or agency, conducts and/or supervises a research or functional program in a specified professional field; assumes administrative, scientific, and supervisory duties as delegated; supervises complex projects and makes recommendations to supervisor; does other related duties as required.”

The definition section of the specification for the title, Research Scientist 1, Chemistry (03166C, R30), states:

“Under general supervision of a division director or other supervisory official in a state department, institution or agency, independently initiates and coordinates a research or functional program in a specified professional field; may supervise lower levels of Research Scientists and other technical staff; manages high level technical projects; reports results to designated officials for inter- and intra-agency response; does other related duties as required.”

Incumbents in the Research Scientist title series typically perform scientific investigations and experiments, identify breakthroughs, and report on new discoveries. Scientific research involves the development and implementation of innovative original theories or methods, making independent decisions, in a very limited or restricted area of a scientific field, and solving problems using standards principles, procedures, and techniques for their scientific professional field. The Research Scientist designs his or her research, chooses methods, and analyzes findings. It is significant that the Research Scientist works “in a specified professional field”. It is the intent that the series remain in the scientific realm. In that respect, research performed must be developed using appropriate research programs and designs.

A Research Scientist 2, Chemistry is expected to conduct or supervise a research or developed program in a specific professional field. The Research Scientist 2, Chemistry assumes appropriate administrative and technical duties, and collects and analyzes data obtained and prepares reports. Incumbents in this title may submit proposals and recommend research in compliance with appropriate methodology. In addition, incumbents maintain liaison with state, federal and other individuals, and consult with Department staff. A Research Scientist 2 can lead and coordinate projects.

A Research Scientist 1, Chemistry independently initiates designs, coordinates, and implements research and/or analytical programs of a highly complex technical nature. Incumbents in this title are expected to develop appropriate research protocols and designs, collect and analyze data obtained, and manage high level technical projects. In addition, a Research Scientist 1, Chemistry may prepare applications for federal and other grant funds, and prepare the annual budget request. The Research Scientist 1, Chemistry title is assigned to the "R" bargaining unit. Titles assigned to the "R" bargaining unit are considered to be the primary or first level of supervision. As such, incumbents in this title typically supervise and direct the activities of subordinate staff including evaluating performance, and organize and assign work of the organizational unit. Your position does not perform scientific experiments, develop breakthroughs, or establish new discoveries. Your position does not develop or implement innovative designs, theories or methods. Your position does not supervise staff. Therefore, both Research Scientist 2 and Research Scientist 1 are inappropriate classifications for the functions of this position.

Additionally, your position reports to a Section Chief, Environmental Protection, (S30). A reclassification of your position to the Research Scientist 1 (R30) would create an inappropriate reporting relationship. In any supervisor/subordinate reporting relationship, the supervisor's title must be assigned a higher class code and must also be assigned to an appropriate and higher bargaining unit.

The definition section of the specification for the title, Environmental Scientist 2 (15873, P28), states:

"Under the direction of an Environmental Scientist I, or other supervisory officer in a state department, institution, or agency, assists in assigned scientific projects and programs in the field of environmental science and may be charged with the responsibility for an assigned phase of such activity; does other related duties."

An Environmental Scientist 2 provides scientific advice and assistance. An incumbent in this title coordinates water supply/water pollution control activities within the department. An Environmental Scientist 2 may be responsible for an assigned phase of a project or program. Incumbents in this title participate in the development of environmental surveillance systems involving pollutants and contaminants. Incumbents in this title review research proposals. An Environmental Scientist 2 keeps current with trends through literature and new developments in ecology and environmental science. An incumbent in this title prepares technical, scientific

reports of environmental and ecological matters containing findings, conclusions, and recommendations.

Your position provides technical and scientific expertise to upper management and other division staff to advance Safe Drinking Water (SDW) compliance determinations or to establish policy to propose regulation for the SDW program. Your position reviews and compares data from different laboratories to discover reporting errors made by the laboratories that are not due to the analyses of the samples but are instead due to the collection method. Your position initiates projects related to water quality sampling and analytical methodology. Your position initiates data reporting of drinking water results and evaluates and interprets data. Your position initiated the data entry of reports by developing several templates and preparing an SOP to assist with the entry of results. Your position ensures the data that was entered is correct. Your position interprets and summarizes all the orthophosphate and phosphorus water results from three laboratories for water collected as part of a complaint.

Your position acts as the Quality Assurance representative for the Water Supply Operation Elements (WSOE) and the Safe Drinking Water permitting section. This duty routinely queries various water quality parameters and laboratory submission to evaluate the quality of the public water system's drinking water test results. Your position reviews water test results for correctness, identifies errors, and isolates instances where water systems are not compliant with DSW or laboratory certification regulations. Your position performs laboratory audits and/or water treatment plant inspections which include interviewing technicians and reviewing on site logbooks and documents.

Your position investigates unusual or suspect data, and presents evidence of data falsification or gross violations of reporting requirements to upper management, and works with the New Jersey Criminal Justice Department and/or Office of Quality Assurance (OQA) when applicable. Your position independently approves or denies requests from public water systems to invalidate drinking compliance data. Your position responds to the Quality Management Plan inquiries by OQA and oversees all SOPs and Quality Assurance Project Plans generated by WSOE staff. Your position attends SDW EPA Region 2 Updates as the WSOE representative.

You assist in scientific programs and projects with regard to the environmental sciences. These duties are commensurate with those of an Environmental Specialist 2.

Determination:

By copy of this letter, the Appointing Authority is advised that we will reclassify your position to Environmental Scientist 2 (15873, P28) effective February 8, 2014, unless they assign duties and responsibilities that are commensurate with your current title, Research Scientist 2, Chemistry (03165C, P28) within thirty days of receipt of the determination letter.

This classification determination does not imply that you will meet the eligibility requirements of the title. It is the responsibility of the appointing authority to ensure that an incumbent meets the eligibility requirements prior to any appointment.

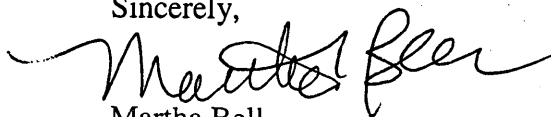
February 11, 2015

Page 6

The class specification for Environmental Scientist 2 is descriptive of the general nature and scope of the functions that may be performed by an incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of related tasks not specifically listed.

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Martha Bell". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Martha Bell,
Team Leader
Agency Services

MTB/db

C: Robin Liebeskind

Veronica Kirkham

