



B-44

STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Jehan Halim,
Department of Environmental
Protection

Classification Appeal

CSC Docket No. 2016-627

ISSUED: NOV 06 2015 (SLK)

Jehan Halim 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 Engineer 3. The appellant seeks a classification of Environmental Engineer 4.

The record in the present matter establishes that Ms. Halim's permanent title is Environmental Engineer 3. The appellant is assigned to Water Resource Management, Division of Water Quality, Municipal Finance Construction Element, Bureau of Construction and Connection Permitting and reported to Shadad Ahmad,¹ Section Chief, Environmental Protection. At the time of the audit, she directly supervised one Environmental Engineer 3² and one Environmental Engineer 1. None of the appellant's subordinates function as supervisors. Ms. Halim sought a reclassification of her position, alleging that her duties are more closely aligned with the duties of an Environmental Engineer 4. In support of her request, the appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties she performs as an Environmental Engineer 3. Agency Services reviewed and analyzed the PCQ completed by the appellant, her Performance Assessment Review (PAR), an organization chart, and statements by the appellant, her supervisor, division director, and the appointing authority. On May 13, 2015, Agency Services conducted a desk audit. In its decision, Agency Services determined that the duties performed by the appellant were consistent

¹ Personnel records indicate that Shadad Ahmad retired on June 1, 2015.

² An updated organization chart indicates that the appellant is currently supervising an Environmental Engineer 1 and is no longer supervising an Environmental Engineer 3.

with the definition and examples of work included in the job specification for Environmental Engineer 3.

On appeal, Ms. Halim presents that an Environmental Engineer 3 has the responsibility of training Environmental Engineers 1 and 2 and that she supervises an Environmental Engineer 1 and 3. The appellant states that the Environmental Engineer 3 that she supervised provided guidance, assistance, and supervision to the Environmental Engineer 1 and if there was a problem, they both came to her. She indicates that she provided technical guidance to both of these employees, reviewed their timesheets, and signed their PARs. Ms. Halim maintains that she considers herself a second level supervisor engineer who was supervising a first level supervisor who is an Environmental Engineer 3. She provides that she had been supervising the Environmental Engineer 3 for three years and the Environmental Engineer 1 for two years and she reviewed and evaluated their Treatment Works Approval application projects and made recommendations for final action to the Section/Bureau Chief. The appellant presents that she provided training including technical guidance and knowledge to all bureau staff in reviewing applications which had significant impact on the quality of work. Further, she and another Supervisor Engineer conducted 5 technical review training sessions for the on-site treatment and disposal projects. Ms. Halim indicates that she submitted her request for her classification review in February 2014 and it took over a year before the appointing authority submitted the request to Agency Services as its organization chart was being revised. The appellant asserts that none of her superiors or human resources knew that an incumbent serving as an Environmental Engineer 4 must be a second level supervisor. She argues that since her classification review request was made before there were any changes to the organization and that her superiors did not know that an incumbent serving as an Environmental Engineer 4 needed to be a second level supervisor, her request should be "grandfathered" and her position should be classified as an Environmental Engineer 4. In support of her assertion, she claims that there is a Supervisor Engineer 4 who had his position reclassified two years ago and this individual supervised someone who was in a higher title than himself who did not supervise subordinate staff.

CONCLUSION

The definition section of the job specification Environmental Engineer 3 states:

Under general supervision of a supervisory official in a State department, institution, agency, or local government agency, takes the lead or may supervise the performance of engineering work including but not limited to water management, air pollution control/management, coastal resource management, hazardous/non-

hazardous waste control/management; reviews engineering plans, makes determinations and/or recommendations on plans; field visits, inspections, investigations/surveys; gathers data, researches and analyzes information as it relates to environmental control work; and/or the enforcement of environmental laws and/or regulations; works with Environmental Impact Statements; does related work as required.

The definition section of the job specification for Environmental Engineer 4 states:

Under direction of a supervisory official in a state department, agency, or local government agency, supervises professional or non-professional staff as assigned, engaged in the performance of engineering work; is responsible for directing the completion of complex engineering tasks relative to the program including but not limited to water management, air pollution control/management, noise pollution control/management, coastal resource management, hazardous/non-hazardous waste control/management; supervise[s] the review of engineering plans; prepares evidence for legal purposes; serves as an agent of the court when so designated; and/or the enforcement of environmental laws and/or regulations; does related work as required.

In the present matter, the appellant's position is properly classified as Environmental Engineer 3. At the time of the determination, the appellant supervised one Environmental Engineer 3 and one Environmental Engineer 1. The Environmental Engineer 3 title is used for primary level supervisors. Therefore, Ms. Halim's supervision of two non-supervisory staff members does not evidence that her position is misclassified. While the definition section of the job specification for Environmental Engineer 4 indicates that an incumbent supervises professional staff engaged in the performance of engineering work and is responsible for directing the completion of complex engineering tasks relative to the program including but not limited to water management, it cannot be ignored that the title is used as a second level supervisory title. Secondary level supervisors are required to supervise at least one primary level supervisor. Therefore, incumbents in the Environmental Engineer 4 title are typically required to both lead a staff as well as supervise employees who have supervisory responsibility. Thus, as the appellant supervised only staff members who are in non-supervisory titles, her position cannot be classified as an Environmental Engineer 4.

The Commission disagrees with the appellant's contention that she considers herself a second level supervisor because she supervised an Environmental Engineer 3 who she considers a first level supervisor. Even though that

Environmental Engineer 3 may have provided guidance and assistance and had been the first person that the Environmental Engineer 1 would go to if there was a problem, since the Environmental Engineer 3 was not responsible for the preparation of formal performance evaluations for a subordinate staff member, that Environmental Engineer 3's position cannot be considered a first level supervisor. Instead, what the appellant describes is that the Environmental Engineer 3 she supervised had lead worker responsibilities. An incumbent in a leadership role refers to persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or lower level than themselves and perform the same kind of work as that performed by the group being led. See *In the Matter of Catherine Santangelo* (Commissioner of Personnel, decided December 5, 2005).

In reference to the appellant's comments regarding how long she has been supervising, her knowledge, and her impact on the quality of work within the bureau and on projects, how well or efficiently an employee does his or her job, length of service, volume of work and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees are classified. See *In the Matter of Debra DiCello* (CSC, decided June 24, 2009). Additionally, 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. Moreover, 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.

With respect to the appellant's arguments regarding the appointing authority's over a year delay in submitting her request to Agency Services, her claim that her superiors and human resources did not know she needed to be a second level supervisor, and her assertion that her position should be "grandfathered" and classified as an Environmental Engineer 4 because of this, there has not been any evidence presented that indicates that the appellant acted as a second level supervisor at any point, and therefore the appointing authority's delay did not negatively impact the classification review. However, it was clearly improper for the appointing authority to have delayed Agency Services' review. It is reminded that it must follow all applicable rules in regard to this agency's performance of classification reviews. See *N.J.A.C. 4A:3-3.9(c)*.

In regard to the appellant's claim that another employee had his position reclassified two years ago to a Supervisor Engineer 4 title even though that employee supervised someone who was in a higher title than himself and they did not supervise staff who supervised subordinate staff, 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). In this matter, it is noted that it was improper for the appellant to have been supervising an Environmental Engineer 3 as a supervisor cannot supervise an employee with the same title. See *In the Matter of Veronica Rucker* (CSC, decided May 7, 2014) (Organizational Chart submitted with appellant's classification appeal indicated that an incumbent was supervising a person in the same title and the Commission ordered appointing authority to remove supervision duties or provisionally appoint employee to a supervisory title). However, it is further noted that the appointing authority has provided an updated organizational chart indicating that the appellant is no longer supervising that Environmental Engineer 3 and, like the appellant, that employee is now being supervised by the Section Chief.

ORDER

Therefore, the Civil Service Commission concludes that the position of Jehan Halim is properly classified as an Environmental Engineer 3.

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

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 5th DAY OF NOVEMBER, 2015



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
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P.O. Box 312
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Attachment

**c: Jehan Halim
Deni Gaskill
Kenneth Connolly
Joseph Gambino**



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
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CHRIS CHRISTIE
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KIM GUADAGNO
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ROBERT M. CZECH
Chair/Chief Executive Officer

July 7, 2015

Ms. Jehan J. Halim
New Jersey Department of Environmental Protection
Division of Water Quality
Bureau of Construction and Connection Permitting
401 East State Street
PO Box 420 Mail Code 401-03
Trenton, New Jersey 08625-0420

Re: Classification Appeal
Environmental Engineer 3
Position #083246
CPM #04150050
Employee ID #000334080

Dear Ms. Halim:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above. Our review involved a detailed analysis of the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR); your statements; the statements of your supervisor, division director, and appointing authority; and a desk audit that was conducted May 13, 2015.

Issue:

You are appealing the current classification of your position, Environmental Engineer 3. You contend that your current duties and responsibilities are consistent with those of an Environmental Engineer 4.

Organization:

The position is located in Water Resource Management, Division of Water Quality, Municipal Finance Construction Element, Bureau of Construction and Connection Permitting, Department of Environmental Protection. You are supervised by

Shadab Ahmad, Section Chief, Environmental Protection (S30) and you directly supervise one (1) Environmental Engineer 3 and one (1) Environmental Engineer 1. None of your subordinates function as supervisors.

Finding of Fact:

The primary responsibilities of the position include, but are not limited to, the following:

- Supervises a technical review unit of the Treatment Works Approval (TWA) Section.
- Assigns TWA applications to staff for technical review and evaluation.
- Reviews and evaluates staff recommendations and comments on TWA applications and forwards to Section/Bureau Chief for final action.
- Provides technical guidance, training, and assistance to staff.
- Assists the Section Chief in the development and drafting of rules, regulations, and guidelines related to the TWA program.
- Conducts technical review and evaluates engineering designs of submitted applications and requests additional information as required.
- Conducts and/or attends meetings with applicants, their agents, and engineers to provide information on the requirements of the TWA program.
- Attends Office of Permit Coordination meetings as "one stop" process for multi-program permits for complex projects.
- Prepares and conducts technical review sessions for the on-site treatment and disposal project.

Review and Analysis:

The duties and responsibilities of the position were compared to those described within the class specification for Environmental Engineer 3 and Environmental Engineer 4.

The definition section of the specification for the title, Environmental Engineer 3, (R25, 16304), states:

“Under general supervision of a supervisory official in a state department, institution, or agency, takes the lead or may supervises the performance of engineering work including but not limited to water management, air pollution control/management, noise pollution control/management, coastal resource management, hazardous/non-hazardous waste control/management; reviews engineering plans, makes determinations and/or recommendations on plans; field visits, inspections, investigations/surveys; gathers data, researches and analyzes information as it relates to environmental control work; and/or the enforcement of environmental laws and/or regulations; works with Environmental Impact Statements; does related work as required.”

Under general supervision, an Environmental Engineer 3 organizes engineering and technical work and develops appropriate work methods and procedures. An Environmental Engineer 3 develops, reviews, and issues permits applicable to assigned elements. Employees holding this title are considered first-level supervisors and must oversee permanent professional staff performing environmental engineering work. The Environmental Engineer 3 assigns and reviews work on a regular and recurring basis, and completes performance evaluations for subordinate staff.

The definition section of the specification for the title, Environmental Engineer 4, (S28, 16297), states:

“Under direction of a supervisory official in a state department, or agency, supervises professional or non-professional staff as assigned, engaged in the performance of engineering work; is responsible for directing the completion of complex engineering tasks relative to the program including but not limited to water management, air pollution control/management, noise pollution control/management, coastal resource management, hazardous/non-hazardous waste control/management; supervise the review of engineering plans; prepares evidence for legal purposes; serves as an agent of the court when so designated; and/or the enforcement of environmental laws and/or regulations; does related work as required.”

An Environmental Engineer 4 plans, develops, reviews, and supervises the collection, tabulation, and analysis of various types of data. Incumbents in this title supervise the development, review, and issuance of permits applicable to the

assigned element. An Environmental Engineer 4 prepares and supervises preparation of engineering, inspection, and other reports containing findings, conclusions, and recommendations. An incumbent holding this title plans and directs work of an interdisciplinary team in conducting field surveys, engineering, and design work. An Environmental Engineer 4 supervises the review and analysis of engineering construction applications for licenses. An incumbent in this title supervises the review of engineering plans. An Environmental Engineer 4 is considered a second-level supervisor expected to directly supervise first-level supervisors.

Your position supervises a unit responsible for the review and approval of Treatment Works Approval (TWA) applications. Your position performs a technical review of applications that have been determined to be administratively complete and initially reviewed, evaluated, and a recommendation made by staff members. Your position reviews engineering reports, the permit and conditions, and project design in providing a recommendation to the Section/Bureau Chief for approval/denial. Your position responds to phone calls and correspondence addressing TWA permit and regulatory issues. Your position provides technical expertise on the TWA requirements during pre-application meetings and "one-stop" meetings on complex projects. Your position contributed to the TWA regulation dealing with capacity assurance.

An Environmental Engineer 4 is considered a second-level supervisor and is expected to directly supervise professional staff functioning as first-level supervisors. While your position supervises two (2) professional employees, neither of those employees supervises subordinate staff. As such, your position is not functioning as a second-level supervisor but instead as the first line of supervision.

Therefore, the Environmental Engineer 3 is the appropriate classification for a first level supervisor.

Determination:

By copy of this letter, the Appointing Authority is advised that your position is properly classified as Environmental Engineer 3 (R25, 16304).

In addition, you directly supervise an Environmental Engineer 3. In a supervisor/subordinate reporting relationship, the supervisor's title must be assigned a higher class code and must be assigned to an appropriate and higher bargaining unit. Therefore, your supervision of an Environmental Engineer 3 (R25) is a prohibited reporting relationship.

Name: Jehan Halim
Date: July 7, 2015

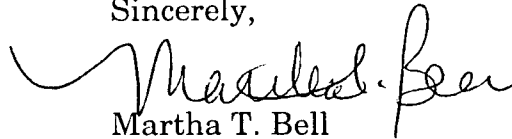
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By copy of this letter, the Appointing Authority is advised to remove the supervisory duties over the Environmental Engineer 3 and assign supervisory duties to an individual with a higher class code and bargaining unit.

The Environmental Engineer 3 title is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the 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,



Martha T. Bell
Human Resource Consultant 5
Division of Agency Services

MTB/rej
C: Robin Liebeskind
Veronica Kirkham
CPM #04150050

