



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Wendy Quesnel,  
Department of the Treasury

Classification Appeal

CSC Docket No. 2020-2084

ISSUED: FEBRUARY 27, 2020 (SLK)

Wendy Quesnel appeals the determination of the Division of Agency Services (Agency Services) that the proper classification of her position with the Department of the Treasury is Auditor 3, Taxation. The appellant seeks a Supervising Auditor, Taxation classification.

By way of background, the appellant is a permanent Auditor 3, Taxation (Auditor 3 – R28) who sought reclassification of her position, alleging that her duties were more closely aligned with the duties of a Supervising Auditor, Taxation (Supervising Auditor – S30). The appellant is assigned to the Division of Taxation, Audit Activity, State Field Audit, CBT Audit – Neptune B and reports to Margaret Matthews, Chief Audit Activity, Treasury. She has supervisory responsibility for four Auditor 2s (P25). In support of her request, the appellant submitted a Position Classification Questionnaires (PCQ) detailing the different duties she performs as an Auditor 3. Agency Services reviewed and analyzed the PCQ completed by the appellant, and all information and documentation submitted. Additionally, Agency Services conducted a telephone audit with the appellant and Matthews. Agency Services found that the appellant’s primary duties and responsibilities entailed, among other things: supervising the assignment of audit caseload and ensuring subordinates’ individual standards are met; conducting informal conferences with taxpayers or with their representatives in person or via telephone to resolve tax issues corresponding to audits of the Shore B Field Auditors; reviewing and/or approving written correspondence prepared by subordinate Auditors prior to sending to taxpayers; utilizing the ESKORT database and/or other inventory control systems to ensure appropriate employees’ record timekeeping, inventory to

ensure timeliness, and to review weekly case aging reports provided by management and manage Auditors' aged inventory to ensure timely actions; preparing and signing subordinates' Performance Assessment Reviews; and monitoring and/or approving subordinates' time records in the electronic Cost Accounting and Timesheet System (e-CATS). In its decision, Agency Services determined that the duties performed by the appellant were consistent with the definition and examples of work included in the job specification for Auditor 3. It is also indicated that the appellant did not function as a second-level supervisor consistent with the Supervising Auditor title.

On appeal, the appellant presents that she has been the sole supervisor for the Shore B Team for two years. She asserts that this includes doing all the work of a Supervising Auditor. The appellant indicates that during the phone audit with Agency Services, she was asked about the duties of her job, including supervisory duties. However, the appellant states that she was not asked about her lack of supervising a first-level supervisor or why she felt that she was performing the duties of a Supervising Auditor despite not supervising a first-line supervisor. She claims that Agency Services' determination does not dispute that she is performing the duties of a Supervising Auditor. Instead, it indicates that incumbents in the Supervising Auditor title are assigned to the "S" Employee Relations Group (ERG) and must supervise first-line supervisors. The appellant highlights that the definition section of the Supervising Auditor job specification does not specifically state that incumbents in this title must supervise a first-line supervisor and only indicates that incumbents supervise the work of audit personnel. She presents that since October 2002, 17 of 20 teams had more than one full year in which the Supervising Auditor did not supervise a first-line supervisor, including many teams where the Supervising Auditor went many years without having to supervise a first-line supervisor. The appellant indicates that this practice existed until July 6, 2019, and she submits documentation to support her claim. Therefore, she asserts that it is undisputable that prior Supervising Auditors were not required to supervise first-level supervisors.

The appellant asserts that Agency Services' determination letter and the job specifications for the relevant titles indicate that there is a clear distinction between supervisors who report to a Chief Auditor and Auditor 3s who report to a Supervising Auditor. She highlights that on the organization chart, she is on the level of Supervising Auditors and not Auditor 3s. She states that as an Auditor 3, she is not permitted to supervise another Auditor 3, so it is impossible for her to supervise a lower-level supervisor. However, the team must have a Supervising Auditor as there are many functions which an Auditor 3 is unable to perform, and management gives her the authority to perform the duties of a Supervising Auditor. The appellant also argues that she does more work than other Supervising Auditors because she does not have any first-level supervisors to assist her. She claims that only 10% of the Supervising Auditors supervise more employees than she and half

of the Supervising Auditors supervise fewer employees.<sup>1</sup> The appellant highlights that, as indicated on her PCQ, her superiors believe that she is performing the duties of a Supervising Auditor. She contends that blind adherence to requiring Supervising Auditors to supervise a first-level supervisor is inconsistent with the realities of the job duties, and, therefore, Agency Services' decision is arbitrary and "discriminatory" in nature as other existing Supervising Auditors have not been held to the same standard.

## CONCLUSION

*N.J.A.C. 4A:3-3.9(e)* states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

The definition section of the job specification for the title Auditor 3 states:

Under direction of a Supervising Auditor, Taxation, in the Division of Taxation, Department of the Treasury, supervises the field or office auditing work and/or examining and verifying of accounts and records, both internally and of taxpayers, with respect to various taxes administered by the division; may be assigned to either field or central office location as required; supervises staff and work activities; prepares and signs official performance evaluations for subordinate staff; does related work as required.

The definition section of the job specification for the title Supervising Auditor states:

Under general direction of a Chief Auditor, or other supervisory official in the Division of Taxation, Department of the Treasury, plans, supervises, and coordinates the work of audit personnel engaged in filed audits or office audits and/or examining and verifying of accounts and records, both internal and of taxpayers, with respect to various taxes administered by the division; may be assigned to work either in a

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<sup>1</sup> The appellant submits her own breakdown of the teams, which she indicates was based on the January 1, 2020 organization chart. Her own analysis indicates that all the teams, other than her own, have at least one Auditor 3 in addition to the Supervising Auditor. Additionally, her analysis shows that her team was tied for being the smallest team. Despite her team being smaller than most teams, she contends that she supervises as many or more than most of the other supervisors on the other teams. However, her chart is not an official organization chart and was not reviewed by this agency in making its determination. Further, as explained later in further depth, the criteria for holding a position in a title that is in the "S" ERG is the responsibility of supervising a first-level supervisor and not how many non-supervisors that you supervise.

field office or the central office as required; supervises staff and work activities; prepares and signs official performance evaluations for subordinate staff; does related work as required.

Based upon a thorough review of the information presented in the record, it is clear that the appellant's position is properly classified as Auditor 3 as the appellant acknowledges that she does not supervise any first-level supervisors. While the appellant argues that Supervising Auditors do not always supervise a first-level Auditor, that blind adherence to this requirement is inconsistent with the realities of the job duties and that this requirement is arbitrary, the Supervising Auditor title is assigned to the "S" ERG. In this respect, titles are assigned to ERGs based on the classification of the position by this agency. *See N.J.S.A. 11A:3-1.* Each ERG is distinctly defined, and the "S" ERG is defined as those titles used in the secondary level of supervision. A factor in the Civil Service Commission's (Commission) setting the compensation for "S" titles is that employees in this bargaining unit all have the authority to recommend hiring, firing, and disciplining of employees who supervise subordinate employees. Additionally, classifying employees in a title in the "S" ERG without performance evaluation responsibility for at least one primary level supervisor could create a conflict of interest between secondary supervisory and primary supervisory staff being represented by the same bargaining unit. *See In the Matter of David Bobal, et al.* (CSC, decided November 23, 2016) and *In the Matter of Nanci Carr* (CSC, decided November 23, 2016).

Concerning the appellant's complaint that Agency Services did not ask her why she felt that she was performing the duties of a Supervising Auditor even though she did not supervise a first-line supervisor, it was unnecessary for it to ask that question as, regardless of her response, she would still not be performing the duties of a Supervising Auditor without supervising a first-line supervisor. With respect to her comments that the job specification definition for Supervising Auditor does not specifically state that incumbents must supervise first-line supervisors, the job specification clearly indicates that the Salary Range is "S30" for this title, which means that incumbents in this title are in the "S" ERG performing second-level supervisory duties. In reference to the appellant presenting that prior to July 2019, there were many Supervising Auditors who did not supervise first-level supervisors, even if true, 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). Moreover, the remedy for such a situation would not be to further perpetuate the misclassification of titles by awarding an incorrect classification to an employee on

that basis.<sup>2</sup> Additionally, the Commission did not specifically articulate to the appointing authority that it needed to ensure that all employees in titles in the “S” ERG must supervise first-level supervisors until November 2016. *See Bobal and Carr, supra*. The foundation of position classification, as practiced in New Jersey, is the determination of duties and responsibilities being performed at a given point in time as verified by this agency through an audit or other formal study. In this matter, Agency Services’ determination was dated January 23, 2020. Further, that determination was based on a review of organization charts for the Field Audit North and Field Audit South teams, which were updated in October 2019. A review of those organization charts indicates that there were 20 Field Audit teams. The appellant’s team is the only team without a Supervising Auditor. However, on those 19 other teams, each team has both a Supervising Auditor and an Auditor 3, which means those Supervising Auditors are appropriately classified as they are supervising first-level supervisors.

With respect to the appellant’s argument that Agency Services’ determination letter and the relevant job specifications indicate a clear distinction between supervisors who report to a Chief Auditor and Auditor 3s who report to a Supervising Auditor, as indicated above, the key differentiator between the Supervising Auditor and Auditor 3 titles is that Supervising Auditors must supervise first-level supervisors because Supervising Auditors are in the “S” ERG. 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. Similarly, while the appellant argues that she has greater responsibility than other Supervising Auditors because she does not have an Auditor 3 to assist her, volume of work has 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 duty of managing a first-level supervisor is a considered a higher-level skill than managing non-supervisors and the appellant does not have this responsibility. Further, while her superiors’ recommendations that her position should be reclassified to the desired title can be used as pieces of information in evaluating the classification of the appellant’s position, their recommendations are not determinative for a classification review. *See In the Matter of Jose Quintela* (CSC, decided June 21, 2017). Finally, the outcome of position classification is not to provide a career path

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<sup>2</sup> The Commission notes that it only reviews classification appeals presented to it, and does not, *sua sponte*, investigate wholesale position classification. However, where there is evidence presented to it of such wholesale misclassification, it can order Agency Services to review such matters. However, in this matter, even if the appellant’s contentions are correct, she indicates that such alleged misclassification ceased on July 6, 2019, making such further review unnecessary. Moreover, as presented later, a review of those teams shows that all current Supervising Auditors supervise a first-level supervisor.

to the incumbent, but rather to ensure the position was classified in the most appropriate title available within the State's classification plan. *See In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005).

One other matter needs to be addressed. The appellant argues that the determination she is not performing the duties of a Supervising Auditor was "discriminatory" as existing Supervising Auditors have not been held to the same standard. However, as the organization chart indicates that all of the Supervising Auditors at the time of the classification review were supervising a first-level supervisor, it is not accurate to assert that existing Supervising Auditors were not currently held to the same standard. Further, it is noted that "discrimination" under the New Jersey State Policy Prohibiting Discrimination in the Workplace (State Policy) is based on adverse actions taken based on one's membership in a protected class. The appellant has not made any argument that either this agency's determination nor any treatment she received from the appointing authority was based on her membership in a protected class. Therefore, the appellant has not made any allegation that touches the State Policy. Further, a review of the Field Audit Office's organization charts that this agency reviewed for the classification appeal indicates that 18 of the 20 Field Audit teams consisted of at least 6 employees. However, the appellant's team (Shore B) is one of only two teams that only consisted of five employees.<sup>3</sup> Also, the appellant claims that since she is as an Auditor 3, and is not permitted to supervise another Auditor 3, it is impossible for her to supervise a lower-level supervisor. However, it is noted that the one other team (Newark G) that consisted of five employees has both a Supervisor Auditor and an Auditor 3. Therefore, the appointing authority could organize the Shore B team in a manner where there is both a Supervising Auditor and an Auditor 3. However, it appears that it has made the decision that, at least as of the time of the classification review, the needs of Shore B team do not require both a first and second-level supervisor. However, if the appellant believes that she was subject to adverse treatment based on her membership in a protected class, she may file a State Policy complaint with the appointing authority's Equal Employment Opportunity Office.

Accordingly, a thorough review of the entire record fails to establish that the appellant presented a sufficient basis to warrant a Supervising Auditor, Taxation classification of her position.

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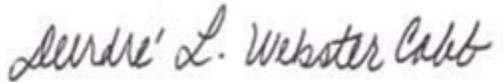
<sup>3</sup> The number of employees includes the high-level Supervisor for the team.

**ORDER**

Therefore, it is ordered that the position of Wendy Quesnel is properly classified as Auditor 3, Taxation.

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 26<sup>th</sup> DAY OF FEBRUARY, 2020



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