

**COMMONWEALTH OF MASSACHUSETTS
CIVIL SERVICE COMMISSION**

One Ashburton Place: Room 503
Boston, MA 02108
(617) 727-2293

CONSTANCE CASCIO,
Appellant

v.

**DEPARTMENT OF
STATE POLICE,**
Respondent

Case No.: C-12-142

DECISION

The Civil Service Commission (Commission) voted at an executive session on January 10, 2013 to acknowledge receipt of the Recommended Decision of the Administrative Law Magistrate dated November 20, 2012. After careful review and consideration, the Commission voted to adopt the findings of fact and the Recommended Decision of the Magistrate therein. A copy of the Magistrate's Recommended Decision is enclosed herewith. The Appellant's appeal is hereby *dismissed*.

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, Marquis, McDowell and Stein, Commissioners) on January 10, 2013.

A true record. Attest.



Christopher C. Bowman
Chairman

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision.

Notice to:

Constance Cascio (Appellant)

Shawn T. Givhan (for Respondent)

Richard C. Heidlage, Esq. (Chief Administrative Magistrate, DALA)



THE COMMONWEALTH OF MASSACHUSETTS

DIVISION OF ADMINISTRATIVE LAW APPEALS

ONE CONGRESS STREET, 11TH FLOOR

BOSTON, MA 02114

RICHARD C. HEIDLAGE
CHIEF ADMINISTRATIVE MAGISTRATE

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November 20, 2012

Christopher C. Bowman, Chairman
Civil Service Commission
One Ashburton Place, Room 503
Boston, MA 02108

Re: Constance Cascio v. Department of State Police
DALA Docket No. CS-12-326
CSC Docket No. C-12-142

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Dear Chairman Bowman:

Enclosed please find the Recommended Decision that is being issued today. The parties are advised that, pursuant to 801 CMR 1.01(11)(c)(1), they have thirty days to file written objections to the decision with the Civil Service Commission. The written objections may be accompanied by supporting briefs.

Sincerely,


Richard C. Heidlage
Chief Administrative Magistrate

RCH/mbf

Enclosure

cc: Constance Cascio
Shawn T. Givhan

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Division of Administrative Law Appeals

Constance M. Cascio,
Petitioner

v.

Docket No.: CS-12-326

Department of State Police,
Respondent

Appearance for Petitioner:

Constance M. Cascio, *pro se*

2 Manhattan Dr.
Burlington, MA 01803

Appearance for Respondent:

Shawn T. Givhan
Department of State Police
470 Worcester Road
Framingham, MA 01702

Administrative Magistrate:

James Rooney, Esq.

Summary

The decision of the Department of State Police to deny an employee's request for reclassification is affirmed. The employee has not shown by a preponderance of the evidence that she is performing the duties that distinguish a Personnel Analyst II from a Personnel Analyst I.

RECOMMENDED DECISION

Constance M. Cascio appealed timely under M.G.L. c. 30, § 49 the March 16, 2012 decision of the Department of State Police to deny her request for reclassification from the position of Personnel Analyst I to Personnel Analyst II. I held a hearing on

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July 10, 2012 at the office of the Division of Administrative Law Appeals, One Congress Street, Boston, Massachusetts.

I admitted sixteen documents into evidence, Ms. Cascio's Exhibits 1-11 and State Police Exhibits A-1, A-2, B-1, B-2, and C-1. Ms. Cascio testified on her own behalf. The State Police called no witnesses. I made a digital recording of the hearing.

Findings of Fact

Based on the testimony and evidence presented and reasonable inferences drawn from them, I make the following findings of fact:

1. Constance M. Cascio has worked as a Personnel Analyst I for the Department of State Police since October 11, 2005. Personnel Analyst I is a job grade 10 position. This position is the entry level professional job in the personnel analyst series. (Ex. A-1; Cascio testimony.)

2. The main responsibility of all personnel analysts is to "make recommendations on position classifications and related personnel actions." Additionally, all personnel analysts must conduct studies related to classification, salary surveys, and job specifications. Finally, all personnel analysts may "participate in training activities by preparing and presenting lesson plans and instructional materials" related to job classification. (Ex. A-1.)

3. A Personnel Analyst II is a first level supervisor. The additional responsibilities of a Personnel Analyst II include "provid[ing] guidance to staff by leading assigned projects, providing on-the-job training, and reviewing work performed to ensure appropriate technical content and compliance with standard policies and

procedures.” Personnel Analyst II’s also “attend union-management meetings to provide expertise on job classification issues.” (Ex. A-1; Cascio testimony.)

4. As part of her regular job duties, Ms. Cascio frequently conducted “desk audits” designed to assess the appropriateness of an employee’s classification. During these desk audits, a candidate for reclassification is asked to perform a series of selected practical exercises. After reviewing a completed exercise, Ms. Cascio recommended a job classification that best matched the candidate’s regular duties and skills. (Exs. 5, 10, A-1; Cascio testimony.)

5. In addition to her regular duties, Ms. Cascio also performed the following tasks:

- Created a database cataloging resumes for all job postings within the State Police. (Ex. 2.)
- Drafted written instructions designed to instruct others on the processing of personnel orders. (Ex. 3.)
- Reviewed a worker’s compensation claim file that took up two boxes and created a 12 page timeline, a task that took approximately six weeks to complete. (Ex. 4; Cascio testimony.)
- Created and administered a practical exercise for applicants for the position of Property Equipment and Inventory Control Specialist II. (Ex. 6.)
- Reviewed and revised the job descriptions for the State Police’s secretarial positions with the assistance of an intern. (Ex. 5; Cascio testimony.)

- Trained a recently hired Personnel Officer II, Michael Faiola, in the administration of practical exercises. (Ex. 7; Cascio testimony.)
- Researched, updated, and issued new job descriptions for over 500 civilian employees throughout the State Police department; two employees with higher grades assisted her. (Ex. 8.)

6. The State Police workforce was downsized beginning in January 2008. As a consequence the workload of Ms. Cascio and her co-workers increased significantly. (Cascio Testimony.)

7. In March 2008, Ms. Cascio was asked to complete the remaining desk audits of Marc Chavanne, who held the position of Personnel Selection Specialist III. Personnel Selection Specialist III is a job grade 18 position. (Ex. 10; Cascio testimony.)

8. Over the course of 2008, Ms. Cascio coordinated interviews and processed paperwork for the hiring of over thirty new employees. (Ex. 9.)

9. In 2009, Ms. Cascio actively participated in desk audits and position analyses designed to assess whether an employee was eligible for reclassification. She performed these tasks alongside and in the same manner as her supervisors and superiors. (Ex. 10; Cascio testimony.)

10. In the fall of 2010, Ms. Cascio filed an appeal with the Human Resources Division seeking reclassification as a Personnel Analyst III. Following a desk audit, she was reclassified as Personnel Officer I, which is a job grade 11 position. However, Ms. Cascio was not informed of her reclassification to Personnel Officer I for several months. (Cascio testimony.)

11. On November 30, 2011, Ms. Cascio filed this appeal requesting reclassification to Personnel Analyst II, which is a job grade 13 position. (Cascio testimony.)

12. Following a desk audit on February 2, 2012, the Human Resources Division rejected Ms. Cascio's request for reclassification and concluded that Personnel Officer I matched her job duties. However, in its conclusion, the Human Resources Division noted that the State Police had not awarded Ms. Cascio additional compensation for her reclassification to Personnel Officer I and ordered appropriate retroactive pay. (Cascio testimony.)

13. By letter dated March 29, 2012, Ms. Cascio appealed to the Civil Service Commission. (Cascio testimony.)

Discussion

I recommend that the decision of the Human Resources Division denying Constance Cascio's request to be reclassified as a Personnel Analyst II be affirmed. According to the classification specification, the duties that distinguish a Personnel Analyst I from a Personnel Analyst II include (1) leading assigned projects, providing staff training, and reviewing work performed and (2) attending union-management meetings to provide expertise to provide expertise on job classification issues. Ms. Cascio has not shown that she performs these duties and therefore has not met her burden of proof that she should be classified as a Personnel Analyst II.

The key feature that ties together the first distinguishing duties – leading assigned projects, providing staff training, and reviewing work performed – is that they all relate in

some way to supervision. This is consistent with the basic description of a Personnel Analyst II as a first level supervisor.

There is some evidence that Ms. Cascio took the lead on a few projects involving multiple employees and that she at times provided training to staff. But the examples she gave of tasks in which she took the lead did not show that she performed these tasks while supervising other government employees. She no doubt supervised the intern who assisted her in revising the job descriptions of the State Police's secretarial positions, but there is no evidence that she supervised (or was expected to supervise) the two higher ranked staff who worked with her to revise the job descriptions of 500 civilian employees of the State Police. As for staff training, over a period of roughly six years, Ms. Cascio trained fellow staff members only a handful of times. While she may have occasionally instructed a new employee such as Mr. Faiola, the newly hired Personnel Officer II, any work she performed was consistent with the type of training duties that may be assigned to a Personnel Analyst I. Staff training has not been a regular part of her job, and the training she provided to a new member of the personnel staff concerning aspects of his position that anyone performing at any of the personnel analyst or personnel officer grades would need to know cannot be described as the exercise of a supervisory function.

With respect to the second distinguishing duty of the Personnel Analyst II position, Ms. Cascio has failed to show that she regularly attended union-management meetings to provide expertise. The record offers no evidence that Ms. Cascio has ever attended any union meetings. I cannot find, therefore, that she regularly performs the duties that distinguish a Personnel Analyst II from a Personnel Analyst I.

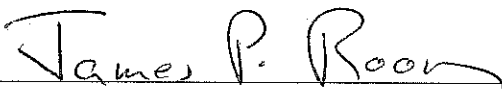
Ms. Cascio pointed to job functions that she shared with higher ranked State Police employees and the increasing complexity of her work as proof of her misclassification. Although she performed many of the same functions as did higher ranked members of the State Police, that fact is not determinative. Personnel analysts of all grades are required to complete desk audits and classification assessments. Starting in 2008, her workload undoubtedly increased and become more complex because of staff attrition. That Ms. Cascio worked alongside Personnel Analyst IIs and that her work became more complex does not merit her reclassification because she does not perform the requisite additional duties required in that job grade – leading assigned projects, providing staff training, and reviewing work performed and attending union-management meetings.

Ms. Cascio argued that the job duties of Personnel Analyst IIs working for the State Police should be taken into account, not just the bare words of the classification specification, and noted that when she conducted reclassification assessments, such comparisons influenced her decisions. She pointed out a number of instances in which she contends that an employee classified by the State Police as a Personnel Analyst II did not supervise anyone. I make no findings as to whether these claims are true. This appeal concerns only whether Ms. Cascio is properly classified, not whether others employed by the State Police as personnel analysts are properly classified. Even if Ms. Cascio is correct, this would suggest only that others might be misclassified, not that she should be reclassified. I am bound by the classification specification for the proposed reclassification. It requires that a personnel analyst perform specified supervisory

functions in order to be classified a Personnel Analyst II. Ms. Cascio does not, and therefore she has not shown she should be reclassified as a Personnel Analyst II.

In conclusion, Ms. Cascio is not performing the job duties that distinguish a Personnel Analyst II and therefore does not merit reclassification. In light of this, I recommend that her request for reclassification be denied. The Human Resource Division's decision that Ms. Cascio be given retroactive pay to the date on which she was reclassified as a Personnel Officer I remains in effect.

DIVISION OF ADMINISTRATIVE LAW APPEALS


James P. Rooney
First Administrative Magistrate

Dated: **NOV 20 2012**