

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION
One Ashburton Place, Room 503
Boston MA 02108
(617) 979-1900

BHUPENDRA G. NAIK,
Appellant

v.

C-20-123

MassDOT,
Respondent

Appearance for Appellant:

Pro Se
Bhupendra Naik

Appearance for Respondent:

Jose J. Lopez, Esq.
MassDOT
10 Park Plaza
Boston, MA 02116

Commissioner:

Christopher C. Bowman

DECISION

On August 12, 2020, the Appellant, Bhupendra G. Naik (Appellant), pursuant to G.L. c. 30, § 49, filed an appeal with the Civil Service Commission (Commission), contesting the decision of the state's Human Resources Division (HRD), in which HRD affirmed the Massachusetts Department of Transportation (MassDOT)'s denial of his request to be reclassified from Civil Engineer IV (CE IV) to Civil Engineer V (CE V). On September 1, 2020, I held a remote pre-hearing conference. I held a remote full hearing on December 7 and December 18, 2020.¹ The

¹ The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.00 (formal rules) apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

hearing was recorded via Webex and both parties were provided with a link to the audio / video recording of the hearing.² For the reasons set forth below, the appeal is denied.

FINDINGS OF FACT:

Ten (10) Appellant Exhibits (Exhibits 1-10) and twenty-five (25) MassDOT Exhibits (Exhibits 11-36) were entered into evidence at the hearing. Based on these exhibits, the testimony of the following witnesses:

Called by the Appellant:

- Bhupendra G. Naik, Appellant

Called by MassDOT:

- Amy R. Lynch, Manager, Classification and Compensation, MassDOT
- James Danila, State Traffic Engineer, MassDOT Highway Division
- Neil Boudreau, Assistant Administrator for Traffic and Safety, MassDOT Highway Division

and taking administrative notice of all matters filed in the case; and pertinent rules, statutes, regulations, case law, policies, and reasonable inferences from the credible evidence; a preponderance of credible evidence establishes the following facts:

1. The Appellant is employed with MassDOT in its Highway Division, Traffic and Safety Engineering Section, Contract Management Unit and is classified as a Civil Engineer IV (CE IV). His functional title is Traffic Engineering Contract/Project Manager. His unit is located at MassDOT's headquarters in Boston. (Testimony of Appellant; Exhibits 1, 21)
2. The Appellant holds a B.S. degree in Civil Engineering from South Gujarat University, India; a TEC Higher Certificate in Civil/Structural Engineering from Nottingham Polytechnic, United Kingdom; and an Engineer-in-Training (EIT) Certificate from the Massachusetts

² In the event of a judicial appeal, the appealing party would be responsible for using the recording to have a transcript prepared.

Board of Registration of Professional Engineers. (Exhibit 1; Testimony of Appellant; Stipulation)

3. Prior to joining MassDOT, the Appellant held positions in India as a structural/civil engineer, a civil engineer, and a project engineer. (Testimony of Appellant; Exhibit 1)
4. The Appellant began work at MassDOT as a Civil Engineer I (CE I) on June 30, 1985. He was assigned to MassDOT's District 4 in Arlington, where he worked on bridge maintenance and resurfacing projects, including supervision and inspection, contract preparation, preparation of bridge deck design drawings, and survey layout and leveling. (Exhibit 1; Testimony of Appellant)
5. In 1992, the Appellant was promoted to Civil Engineer III (CE III), assigned to the Traffic and Safety Engineering Section in Boston. (Stipulation; Testimony of Appellant)
6. The Appellant filed his first classification appeal in 1998, seeking classification as a CE IV. While his appeal was pending at the Civil Service Commission, MassDOT agreed to classify him as a CE IV. He has been classified as a CE IV since 1998. (Stipulation; Testimony of Appellant)
7. In 2005, the Appellant became a **contract manager** with the Traffic Signal/Project Management Unit, still within the Traffic and Safety Engineering Section. At that time, the Section functioned as project manager for traffic signal design projects. The Appellant prepared and administered consultant design service contracts, and also performed some project management duties. He provided functional supervision in the manager's absence, coordinated and conducted reviews of signs and pavement markings, acted as expeditor for certain projects, coordinated the supplemental signing program, and served on an approved equipment committee. As of 2005, the Appellant was only managing one or two contracts

because his other duties occupied a large portion of his time. In particular, the Appellant had extensive duties for traffic signal projects. (Exhibit 18, Testimony of Appellant, Boudreau)

8. From 2005 until 2020, the Appellant's duties changed. The project management function for traffic signal design was moved to the Project Management Section, so the Appellant no longer had significant duties related to the traffic signal program. Additionally, responsibility for handling all finances relating to the supplemental signing program, in which entities offering services such as gas, food, or lodging pay to have their logos placed on highway signs, was moved to the MassDOT Office of Real Estate. Although the Traffic and Safety Engineering Section continued to track information concerning logo signage, the Appellant's duties relating to this program were significantly reduced. (Testimony of Appellant, Boudreau)
9. With the reduction of the Appellant's other duties, his **contract management** duties were increased. From having just one or two contracts to manage, the Appellant began managing between five and seven consultant design service contracts. The Appellant also was assigned to work with the Mass. Highway Districts to prepare and expedite three types of maintenance contracts for the Mass. Highway Districts: guide sign maintenance, pavement marking, and traffic management. Additionally, when consultant contracts were assigned to other engineers within the Traffic and Safety Engineering Section, the Appellant was asked to help them learn to initiate and manage contracts. He also continued to coordinate the logo sign policy. (Testimony of Appellant, Boudreau, Danila; Exhibits 19, 21)
10. Consultant design service contracts are used by the Traffic and Safety Engineering Section for design work in areas such as highway lighting, highway signage, pavement marking, and traffic management. When a new consultant contract is needed, section managers and District engineers create a scope of work document and submit it to the MassDOT Highway

Division Architects and Engineers (A&E) Review Board. The A&E Board selects a consultant and notifies the section manager, in this case Assistant Administrator for Traffic and Safety Neil Boudreau. Mr. Boudreau then asks a contract manager, such as the Appellant, to initiate and manage the contract. (Testimony of Appellant, Boudreau, Danila)

11. To initiate a new consultant contract, the Appellant compiles documents that may reach nearly 200 pages, many of which are created on templates by the consultant or the Appellant. These attachments include the scope of services and copies of the documentation from the A&E Board approval process; information from the consultant such as accounting certificates, previous work for the Commonwealth or other customers, anticipated costs including person-hours, percentage sought for overhead; and a large amount of financial documentation and forms. (Testimony of Appellant, Boudreau, Danila; Exhibits 3-9)
12. Preparation of the contract attachments requires the Appellant to communicate with the vendor, to send financial material from the vendor to the Audit department for selection of the overhead rate, and to obtain signatures on documents and forms from both the vendor and the section manager. The Appellant also reviews the narrative provided by the consultant. (Testimony of Appellant, Boudreau, Danila; Exhibits 3-9)
13. Once the contract documentation is complete, the Appellant signs as contract manager and the section manager signs to indicate his approval of the contract and attachments. The contract package is then sent to the Chief Engineer and the MassDOT Capital Budget Department for approval. After it is approved, the contract is returned to the project manager, who notifies the consultant. (Testimony of Appellant, Boudreau, Danila; Exhibits 3-9)
14. Task assignments within each project design consultant contract are negotiated by the section or project manager. When a specific task is needed within the approved consultant contract,

such as designing lighting along a defined section of highway, the manager will develop a scope of services and agree with the consultant as to the person hours and costs. Once the assignment is approved, the Appellant enters the assignment details into a spreadsheet.

(Testimony of Appellant, Boudreau; Exhibit 2)

15. The Appellant then assumes duties for monitoring of the contract budget. Monthly invoices are sent under each contract, and the Appellant checks the overhead and hourly rate against the contract. If he sees a discrepancy, he notifies an accountant in the Project Management Unit, who will authorize him to contact the vendor for a correction. Once the invoice is approved for payment by accounting and the section manager, the Appellant enters the figures for the invoice, separated by task assignment, into the project tracking spreadsheet.

He then checks to see that the contract and assignments remain within budget. (Testimony of Appellant, Boudreau; Exhibits 2, 8)

16. Management of consultant contracts also requires the Appellant to assist with various types of contract modifications, such as the need to extend a contract or reallocate funds. When a consultant requests a contract modification, the Appellant will be assigned to compile the forms and paperwork for approval of the amendment, including financial documents. Once approved, he enters the details into the spreadsheet. (Testimony of Appellant, Boudreau; Exhibits 3, 7)

17. The Appellant also spends time assisting four engineers who have been asked to initiate and manage consultant design service contracts for work within their units. He acts as a resource for these employees who have been assigned by Assistant Administrator for Traffic and Safety Neil Boudreau to learn contract management in order to ensure wider knowledge relating to the paperwork and financial aspects of consultant contracts. (Testimony of Appellant, Boudreau, Danila; Exhibits 13, 19, 21)

18. Although the Appellant provides valuable assistance to the other engineers who are managing contracts, he does not act as their direct supervisor or provide any input into their EPRS performance evaluations. The Appellant has no employees who directly report to him. He is directly supervised by Assistant State Traffic Engineer Lisa Schletzbaum. His contract management duties are assigned by Assistant Administrator for Traffic and Safety Neil Boudreau, and all his contract documents are approved and signed by Mr. Boudreau before being sent for final approval. (Testimony of Boudreau, Appellant; Exhibit 10)
19. The six Mass. Highway Districts utilize five different types of maintenance contracts, three of which are facilitated by the Appellant: sign maintenance, pavement marking, and traffic management. Each maintenance contract covers a two-year period, so at any given time the Appellant is managing eighteen maintenance contracts. (Testimony of Boudreau, Appellant, Danila; Exhibits 13, 19, 22)
20. The District maintenance contracts are initially prepared by the District engineers. They develop the scope and specifications, such as material types and estimated costs, and send the contract package to the Traffic and Safety Engineering Section. The Appellant enters the information into Project Info, a content management system or CMS. The package is then sent to the Construction Contracts Section for advertisement. After bids come back from contractors, the Appellant reviews the bids and corresponds with the District, noting any discrepancies. The District engineers then make the decision as to whether to accept a bid or go to a re-bid process. Once a bid is accepted, the Appellant prepares the award documents. (Testimony of Boudreau, Appellant, Danila; Exhibits 1, 14, 19, 22)
21. In order to standardize the maintenance contracts among the six Districts, the Appellant has been assigned to assist in the creation of templates to streamline the process for review of maintenance contracts. (Testimony of Appellant, Boudreau; Exhibit 22)

22. The Appellant works hard to keep current in expediting and tracking contract documents, so that invoice and other errors can be identified early and maintenance contracts sent to advertising in a timely manner. (Testimony of Appellant, Exhibit 13)
23. The Appellant's supervisors describe him as a valued and hard-working employee, who has mastered the financial side of contract management. They praised his patience in showing his peers how to prepare and track contracts, and in his 2019 EPRS employee performance review they thanked him for doing a "great job." They noted, however, that his current duties managing the financial aspect of contracts did not require a civil engineering degree, although his knowledge of engineering was a useful background. (Testimony of Boudreau, Danila; Exhibits 1, 14, 21, 35, 36)
24. On November 18, 2019, the Appellant filed a Classification Appeal with the MassDOT Human Resources Division, Classification and Compensation Unit, claiming that he was misclassified as a Civil Engineer IV and was performing the duties of a Civil Engineer V. He filed an Appeal Form and an Interview Guide. (Exhibits 12, 13)
25. An audit was conducted by MassDOT Personnel Analyst Pamela Deal, including an interview and review of the Appellant's interview guide, manager's questionnaire, emails submitted by Mr. Boudreau, and the Appellant's Form 30 job description, EPRS, classification specification, and organizational chart. (Exhibits 13, 14, 15)
26. On June 5, 2020, Amy Lynch, Manager of Classification and Compensation for MassDOT Human Resources, wrote to the Appellant that a preliminary recommendation had been made to deny his appeal. The letter provided the Appellant with the right to submit a written rebuttal. (Exhibit 16)
27. On June 17, 2020, the Appellant provided Ms. Lynch with a rebuttal letter. He stated that he believed his duties fell more closely within Civil Engineer V and noted that the classification

descriptions for Civil Engineer IV and Civil Engineer V were out of date. He also submitted a description of a 2018 internal posting for a contract manager position within the Bridge Project Management section for a Civil Engineer V. (Exhibits 17, 22)

28. On July 16, 2020, Ms. Lynch wrote to the Appellant to notify him that MassDOT had denied his appeal to be reclassified from CE IV to CE V. She informed the Appellant of his right to appeal to Commonwealth's Human Resources Division (HRD). Also on July 16, 2020, the Appellant filed his appeal to HRD. (Exhibits 20, 23)

29. On July 27, 2020, Alexandra McInnis, Senior Personnel Analyst in HRD's Classification and Compensation Unit, wrote to notify the Appellant that his appeal had been denied by HRD because his duties did not warrant reallocation of his position. Ms. McInnis provided the Appellant with appeal rights and instructions. (Exhibit 23)

30. On August 12, 2020, the Appellant appealed HRD's decision to the Civil Service Commission. (Exhibit 26)

31. The duties of a Civil Engineer V are set out in Exhibit 24, the Classification Specification for the Civil Engineer series. (Exhibit 24)

32. The series Summary describes the function of a Civil Engineer as follows:

Incumbents of positions in this series prepare or review plans, designs, specifications and cost estimates for engineering projects, prepare and/or review reports, studies and analytical data; perform calculations relating to engineering problems, perform engineering studies; inspect construction and/or maintenance work, and perform related work as required.

The basic purpose of this work is to perform professional engineering duties in such areas as highways, bridges, buildings and facilities, all in accordance with sound engineering principles, applicable laws, regulations and standards.

(Exhibit 24)

33. The CE Classification Specification lists the following under "Examples of duties common to all levels of the Civil Engineer series":

1. Prepares technical specifications or provides engineering data for technical specifications for civil engineering projects such as building or highway construction and maintenance, water and wastewater treatment facilities, recreational facilities, new equipment, etc. in order to plan, design, and construct structures and facilities such as buildings, bridges, roads, dams, water storage and/or distribution systems, sewage systems, etc.
2. Examines and/or reviews plans, designs, specifications, and costs for environmental impact, for conformance to sound engineering principles and practices, and for cost effectiveness in order to recommend revisions or corrections for approving proposed projects.
3. Performs calculations such as calculations of speed gradients by using computers, slide rules, calculators, etc. to solve engineering problems and/or to check computations made by others.
4. Inspects construction projects and/or maintenance work for compliance with sound engineering principles and practices, and safety and contractual standards.
5. Maintains records and prepares reports on such matters as construction costs, field engineering, status of project, and justifications for contract proposals.
6. Prepares civil engineering design for such projects as buildings, bridges, highways, dams, water storage and distribution systems, sewage systems, recreation facilities, etc. in accordance with sound engineering principles and practices, applicable regulations and technical specifications.
7. Prepares cost estimates of proposed projects using information from project records and other sources.

Based on assignment, incumbents of positions may:

1. Perform plane surveys in connection with engineering projects including the operation of transits, levels and other surveying equipment.
2. Inspect traffic signal installation and/or operations and buildings and other facilities for various physical faults to determine the necessity for restoration and repairs.
3. Collect and/or review transportation data including traffic flow, travel patterns, modes of transportation, road conditions, etc. in order to make recommendations concerning transportation and traffic including traffic control and roadway networks.
4. Perform related duties such as compiling and correlating engineering data, drafting plans, preparing maps and charts, attending meetings and conferences, and providing technical advice regarding such matters as regulatory codes, etc.

(Exhibit 24)

34. Under “Differences in Levels in Series” the CE Classification Specification states that those in level CE V perform the following duties:

Civil Engineer V:

1. Prepare and/or review plans, specifications, and cost estimates for engineering projects such as interstate projects in an urban or suburban setting or bridges or highways with unusual site, environmental or geometric problems.
2. Direct and monitor the planning, design and technical review for large building projects.
3. Review work performed by contractors in the construction, maintenance and site development for large buildings or building-related projects with unusual site, environmental or architectural problems.
4. Represent the department at court or before legislative bodies, boards, commissions, committees, or federal and state agencies.
5. Supervise the projects division in a district, directing the planning, design and estimating for highway projects.
6. Supervise the construction division in a district or assist the statewide construction engineer.
7. Supervise the maintenance division in a district, direct all maintenance operations and prepare budget recommendations.
8. Supervise operations of the department's layout section, including preparation of written descriptions of highway taking, alterations and easements.
9. Supervise statewide structures and maintenance operations, including the investigation of possible defects in structures, and the design of modifications and improvements.

(Exhibit 24)

35. Under "Supervision Exercised" the CE Classification Specification provides for those at the

CE V level:

Incumbents of positions at this level exercise direct supervision (i.e., not through an intermediate level supervisor) over, assign work to, and review the performance of 1-5 professional personnel; and exercise indirect supervision (i.e., through an intermediate level supervisor) over 6-15 professional and/or technical personnel.

(Exhibit 24)

36. Under "Minimum Entrance Requirements" the classification specification for the Civil

Engineering series provides for the CE V level:

Applicants must have at least (A) six years of full-time, or equivalent part-time, technical or professional experience in civil engineering work in such areas as construction, survey, design, transportation, hydraulics, structural, sanitary, drafting, environmental, highway, architectural, airport, soils and materials, of which (B) at least four years must have been in a professional capacity, and (C) of

which at least two years must have been in a supervisory capacity, or (D) any equivalent combination of the required experience and the substitutions below.

Substitutions:

- I. An Associate's degree with a major in civil engineering** or civil engineering technology** may be substituted for a maximum of one year of the required (A) experience.*
- II. A Bachelor's degree with a major in civil engineering** or civil engineering technology** may be substituted for a minimum of two years of the required (A) experience.*
- III. A Graduate degree with a major in civil engineering** may be substituted for a minimum of three years of the required (A) experience and one year of the required (B) experience.*

**NOTE: The terms civil engineering and civil engineering technology include related engineering disciplines, such as construction, survey, hydraulics, design, transportation, structural, soils, sanitary, environmental, drafting, highway, architectural, mining, airport and materials.

* Education toward such a degree will be prorated on the basis of the proportion of the requirements actually completed.

NOTE: Educational substitutions will only be permitted for a minimum of one year of the required (B) experience. No substitutions will be permitted for the required (C) experience.

(Exhibit 24)

37. In 2018 the Bridge Project Management Section posted an internal job position for a Contract Manager at the CE V level. The listed duties included both contract management duties similar to those performed by the Appellant, as well as engineering and project management duties including negotiation of the scope and fee of bridge projects, overseeing the contractors' progress, and resolving design issues to keep within scheduled timelines.

(Exhibit 17; Testimony of Boudreau, Appellant)

38. The projects to be handled by the CE V individual in the Bridge Project Management Section were large, complex bridge projects worth half a billion dollars in the aggregate. The highway projects for which the Appellant manages contracts are smaller and total between four and five million dollars. (Testimony of Boudreau, Appellant)

39. Since 2019, there have been five individuals at the CE V level within the Traffic and Safety Engineering Section. All are or were managing their units. CH, who retired in 2019, managed the Electrical Systems and Contract Management Unit. RW manages the Traffic Regulations Unit. DS manages the Traffic Design and Work Zone Management Unit. LS currently a CE VI, in her former position as a CE V managed the Project Design Review Unit and managed review of the private development program. AG was setting up the Construction Traffic Management Unit, utilizing traffic data analytics for construction sequencing. All these CE V engineers handled complex engineering work within the duties of the CE V classification. All of these CE Vs had direct reports with the exception of AG, who was creating a new unit. (Testimony of Boudreau, Danila; Exhibit 10)
40. Both Assistant Administrator for Traffic and Safety Neil Boudreau and Classification and Compensation Manager Amy Lynch concluded that the Appellant does not perform any of the level-distinguishing duties within the CE V classification. (Testimony of Boudreau, Lynch)

Legal Standard

Any manager or employee of the commonwealth objecting to any provision of the classification of his office or position may appeal in writing to the personnel administrator and shall be entitled to a hearing upon such appeal Any manager or employee or group of employees further aggrieved after appeal to the personnel administrator may appeal to the civil service commission. Said commission shall hear all appeals as if said appeals were originally entered before it.

G.L. c. 30, § 49.

The Appellant has the burden of proving that he is improperly classified. To do so, he must show that he performs the duties of the Civil Engineering V title more than 50 percent of the time, on a regular basis. Gaffey v. Dep't of Revenue, 24 MCSR 380, 381 (2011); Bhandari v. Exec. Office of Admin. and Finance, 28 MCSR 9 (2015) (finding that “in order to justify a

reclassification, an employee must establish that he is performing the duties encompassed within the higher level position a majority of the time”)

Parties' Arguments

MassDOT argues that the Appellant's chief responsibilities relate to the preparation and monitoring of contracts, and that the nature of those duties has not changed significantly since he became a CE IV contract manager in 2005. In his interview guide and testimony, the Appellant stated that his duties include initiating and managing consultant design service contracts, ensuring compliance with contract budgets, overseeing District maintenance contracts, coordinating the supplement sign program, and training and assisting other contract managers. Of the nine level-distinguishing duties in the CE V classification specification, the Appellant testified that he believed he was performing only three:

1. Prepare and/or review plans, specifications, and cost estimates for engineering projects such as interstate projects in an urban or suburban setting or bridges or highways with unusual site, environmental or geometric problems.
2. Direct and monitor the planning, design and technical review for large building projects.
6. Supervise the construction division in a district or assist the statewide construction engineer.

Thus, the Appellant does not claim to be performing the bulk of the CE V duties, which include reviewing work performed by contractors on buildings that are large or pose unusual site problems; representing the department in court or at boards and agencies; supervising or directing District project design; supervising or directing District maintenance operations; preparing budget recommendations; supervising layout section operations; or supervising statewide structures and maintenance operations. He has not shown that he spends more than 50 percent of his time performing the level-distinguishing duties of a CE V.

MassDOT agrees that the Appellant is a long-time, valued employee. Although the Appellant is not entitled to reclassification, he may seek advancement through the promotional process or by competing for a posted position.

The Appellant argues that the classification specifications for the Civil Engineer V title, which were published in 1989, are out of date and should no longer be considered in reclassification appeals. He relies on the Bridge Project Management Section's internal job posting from 2018 for a contract manager position and argues that the duties listed in that job posting, a large number of which mirror his own duties on smaller consultant contracts, should be considered in lieu of the published specifications for the title. Although he does not currently have significant project management duties or responsibility for contracts worth up to a half billion dollars, as was the case for the bridge section's projects, he argues that he is capable of performing project management and that there is no appreciable difference between work on smaller contracts and those on very large bridge contracts.

The Appellant also emphasizes the high volume of work that he performs, including documents he prepares to assist other contract managers. Although he has no direct reports, the Appellant argues that his work training other engineers in contract management, including checking their work before it is submitted, should be considered supervision.

Analysis

The Appellant has not shown that he is performing the duties of a CE V. The first distinguishing duty within the classification specification that the Appellant argues he performs is duty number 1, "Prepare and/or review plans, specifications, and cost estimates for engineering projects such as interstate projects in an urban or suburban setting or bridges or highways with unusual site, environmental or geometric problems." This duty describes engineering work on large, complex bridge or highway projects. It does not refer to the

compilation of documents, however extensive, to be submitted as a contract package, or to the managing of invoices, budget tracking, and preparation of contract amendment documents. The Appellant is not performing this duty.

The second distinguishing duty the Appellant testified he performs is number 2, “Direct and monitor the planning, design and technical review for large building projects.” This also refers to “large” projects and is essentially project management of building projects, not contract management. The Appellant is not performing this duty.

The last distinguishing duty the Appellant stated he performs is duty number 6, “Supervise the construction division in a district or assist the statewide construction engineer.” This duty refers to actual management of a District division, not to facilitating District maintenance contracts or coordinating supplemental sign policy. The Appellant also is not performing this duty.

Other duties within the CE V specification refer to review of contractors’ work on large building projects “with unusual site, environmental or geometric problems;” supervising, investigating, and designing modifications for statewide structures; and representation of the Highway Department before courts, commissions, and federal and state agencies. These duties similarly involve large or complex projects, as well as acting as an external representative of the department. The Appellant has not shown he is performing any of these functions.

Although the Civil Engineering classification specification dates from 1989, the duties listed are consistent with the work performed by CE V employees in the Traffic and Safety Engineering Section. The record shows that these CE V engineers are engaged in high-level and complex engineering work in the varied areas of electrical systems, traffic and speed regulation, work zone management, project design review, and traffic data analytics.

The CE V specification states that a CE V will directly supervise between one and five employees, who in turn will be supervising an additional six to fifteen employees. Although this degree of supervision is not strictly applied, it does reflect the requirement that an engineer at the CE V level will be working at the management level with a great deal of autonomy and will generally supervise a unit of other employees. This was true in the Traffic and Safety Engineering Section, where except in the case of a unit manager who was setting up a new unit, all the CE V employees in the Section were managing their own units and directly supervising other employees. In contrast, the Appellant is not a manager and has no direct reports. His contract work is assigned by Mr. Boudreau and is not sent on for approval until Mr. Boudreau reviews and approves all the Appellant's contract documentation.

The Appellant also does not meet the minimum entrance requirements for a CE V. Those requirements include two years' prior experience in a civil engineering position as a supervisor, meaning acting as a direct supervisor of other employees.

Finally, the record shows that the Appellant's contract management position may not be correctly classified within the Civil Engineer series. As Ms. Lynch suggested in her testimony, in the event that the Appellant's position becomes vacant, MassDOT should conduct a job analysis to determine the most appropriate series for this position.

For all these reasons, the Appellant's appeal under Docket No. C-20-123 is hereby *denied*.

Civil Service Commission

/s/ Christopher C. Bowman

Christopher C. Bowman

Chair

By a vote of the Civil Service Commission (Bowman, Chair; Camuso, Ittleman, Tivnan, and Stein, Commissioners) on July 1, 2021.

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 the 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. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his/her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice to:

Bhupendra Naik (Appellant)

Jose J. Lopez, Esq. (for Respondent)