

COMMONWEALTH OF MASSACHUSETTS

CIVIL SERVICE COMMISSION

100 Cambridge St., Suite 200

Boston, MA 02114

(617) 979-1900

CONNIE WU,

Appellant

v,

DEPARTMENT OF REVENUE,

Respondent

Docket Number:

C-24-076

DECISION

Pursuant to G.L. c. 31, § 2(b) and/or G.L. c. 7, § 4H, a Magistrate from the Division of Administrative Law Appeals (DALA) was assigned to conduct a full evidentiary hearing regarding this matter on behalf of the Civil Service Commission (Commission).

Pursuant to 801 CMR 1.01 (11) (c), the Magistrate issued the attached Tentative Decision to the Commission. Neither party submitted objections. .

After careful review and consideration of the Tentative Decision, attached, as well as the Appellant's objections and the Respondent's reply, the Commission today voted to affirm and adopt the Tentative Decision issued by the Magistrate, thus making the attached Tentative Decision, together with this document, the Final Decision of the Commission.

Accordingly, the Appellant's appeal under Docket No. C-24-076 is hereby ***denied***.

By vote of the Civil Service Commission (Bowman, Chair; Dooley, Markey and Stein, Commissioners [McConney – Absent]) on May 1, 2025

Civil Service Commission

/s/ Christopher C. Bowman

Christopher C. Bowman

Chair

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. 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:

Connie Wu (Appellant)

Amanda Rigal, Esq. (for Respondent)

Natalie Monroe, Esq. (Chief Administrative Magistrate, DALA)

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Civil Service Commission

Connie Wu,
Appellant

v.

Docket No. C-24-076; CS-24-0499

Department of Revenue,
Respondent

Appearance for Appellant:

Connie Wu, *pro se*

Appearance for Respondent:

Amanda Rigal, Esq.
Department of Revenue

Administrative Magistrate:

Melinda E. Troy, Esq.

SUMMARY OF DECISION

The Administrative Magistrate of the Division of Administrative Law Appeals recommends that the Civil Service Commission deny the Appellant's appeal. The Appellant sought reclassification of her position at the Department of Revenue ("DOR") from Computer Operator I to Program Coordinator I. The Appellant did not meet her burden to show that she was performing the level-distinguishing duties of a Program Coordinator I during a majority of her time.

RECOMMENDED DECISION

The Appellant, Connie Wu, is currently a Computer Operator I ("CO I") at the DOR. She requested that the DOR reclassify her position from a CO I to a Program Coordinator I ("PC I"). The DOR denied her request, and the Massachusetts Human Resources Division ("HRD")

affirmed the DOR's denial. Pursuant to G.L. c. 30, § 49¹, she appealed the HRD's decision to the Civil Service Commission. I held an in-person hearing on September 12, 2024 at the Commission at 100 Cambridge Street, Boston, MA 02114, which I digitally recorded² with the parties' consent. I admitted 19 exhibits as evidence. There were 10 from the Appellant (A1-A10) and nine from the Respondent (R1-R9). Both parties submitted post-hearing briefs, the last of which was received November 21, 2024, and after which the record closed.

Based upon the exhibits and the testimony of the following witnesses:

Called by the Appellant:

- Connie Wu, Appellant
- Carmen Mei, Program Coordinator III, OPS³ Processing Division⁴

Called by the Respondent:

- Murielle Campbell, Personnel Analyst III, DOR Human Resources Bureau⁵
- Carmen Mei, Program Coordinator III, OPS Processing Division

¹The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§ 1.01 et. seq. (formal rules) apply to adjudications before the Commission with G.L. c. 30, § 49 or Commission rules taking precedence over conflicting rules.

²Copies of the recording of the full hearing were provided to the parties. If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to use the recording to supply the court with the written transcript of the hearing to the extent that the plaintiff wishes to challenge the decision as unsupported by substantial evidence, arbitrary or capricious, or an abuse of discretion. In such cases, the Commission's recording shall be used to create the written transcript.

³ The meaning of the acronym "OPS" is not clear from the record. It is a designation used by the Respondent in its memoranda.

⁴ Ms. Mei was called as a witness by both parties.

⁵ This decision refers to the DOR's Human Resources department as the "Human Resources Bureau." The larger Commonwealth entity known as the "Human Resources Department" is designated as "HRD".

- Glenda Rivera, Deputy Chief, OPS Processing Division

and taking administrative notice of all matters filed in the case, pertinent statutes, regulations, policies and reasonable inferences from the credible evidence, I make the following findings of fact:

1. Connie Wu has been employed by the DOR since November 1996. She has been employed as a Computer Operator I since approximately 2000. The position is within the DOR's Processing Unit. (Exhibit R5.)
2. Ms. Wu directly reports to Carmen Mei. Ms. Mei has worked at the DOR for 27 years and has known Ms. Wu for that entire time. Ms. Mei is currently a Program Coordinator III, a position she has held for two years. She has 6 direct reports and manages data entry, cash and exception processing at the DOR facility in Chelsea, where Ms. Wu works. (Testimony, Mei.)
3. Ms. Mei reports to Glenda Rivera, the Deputy Chief of Processing at the DOR facility in Chelsea. (Testimony, Rivera.)
4. None of the employees in Ms. Wu's group are classified as PC I's. (Testimony, Rivera.)
5. According to the Classification Specification for CO I, it is an "entry level technical job." Incumbents operate computer equipment, respond to error messages, scan input data, operate data entry and office machines, analyze input or output data for completeness and accuracy and prepare output data for distribution to users. (Exhibit R7.)
6. The Form 30 for Ms. Wu's current position of a CO I states in its "General Statement of Duties and Responsibilities" that the incumbent of the CO I position is to "perform the various exception processing in Genisys, as well as data entry on various online systems.

Research and apply checks using the Fairfax and Genisys systems.⁶ Research is performed by accessing multiple systems.” (Exhibit R5.)

7. The Form 30 includes in its “Detailed Statement of Duties and Responsibilities” eight duties. These are:
 - a) Process tax data from information supplied by taxpayers and other Bureaus within the department and outside agencies.
 - b) Review problem data, check for discrepancies, and make corrections as required.
 - c) Generate taxpayer notices as required after researching incomplete or inaccurate tax data.
 - d) Research and resolve exception queues in Genisys.
 - e) Correct checks using the Fairfax system.
 - f) Update registration files as required.
 - g) Utilize job aids.
 - h) Access ITD registry, Webfile, Secretary of State, CWM, and Genisys as part of the research process. *Id.*
8. The CO I position is a clerical position, focused on data entry. It includes receiving and sorting mail and inputting it into the various DOR computer and data systems so that the employees of the various departments can address the substantive issues raised in the documents and correspondence. (Testimony Campbell.)
9. Ms. Wu enters data, scans documents, and verifies and processes checks submitted to DOR using the current DOR systems, such as Genisys. She processes some of the mail. (Testimony, Rivera; Exhibit A5.)
10. These duties are within the duties of a CO I. (Exhibit R5.)
11. In Evaluation Year 2022 (“EY 2022”), the Appellant received a positive review on her Employee Performance Review Form (“EPRS”), attaining a rating of “meets” or “exceeds” on all measured criteria. (Exhibit R5.)

⁶ Fairfax and Genisys appear to be data systems utilized by the DOR, although the function of each was not further explained by the witnesses.

12. In that EY 2022 EPRS, the reviewer and supervisor, Glenda Rivera, stated,

Connie is very flexible, and during the busy tax season in addition to performing her Exception/Cash processing duties, she has assisted in working in the mailroom, such as performing doc prep for income and money.... *Id.*

13. Also in that EY 2022 EPRS, under “Supervisor Comments”, Ms. Rivera stated, in

pertinent part, “Connie exceeds the expectations of production when working

Exception/Cash, as well, when working in other areas....” *Id.*

14. By email dated June 30, 2022, the Appellant requested that the DOR’s Human Resources

Bureau (“HRB”) reclassify her position from a CO I to a PC I. (Exhibit R1.)⁷

15. Once she made that request, Ms. Wu began working with Murielle Campbell regarding

the reclassification. Ms. Campbell is a Personnel Analyst III at the DOR HRB. Her

duties include working with HR processing and participating in the reclassification

process for those DOR employees who request it. (Testimony, Campbell.)

16. According to its Class Specification, a Program Coordinator I is a supervisory position.

Incumbents “exercise direct supervision...over, assign work and review the performance

of 1-5 professional, technical, administrative and/or other personnel” and may exercise

⁷ Ms. Wu’s initial request appeared to be on behalf of herself and an unspecified number of other employees. She stated, in relevant part, “We are the only group in the DIB working on all task [sic] in this bureau...our supervisor had reclassified their title to program coordinator III. We believed if the supervisor qualify [sic] for that title update we should qualify as well...” The Commission lacks jurisdiction over class reallocation appeals. G.L. c. 30, § 49 (“The provisions of this section, as they relate to appeals on the reallocation of a class or group of classes to a higher job group or job groups, shall not apply to any employee whose position is included in a collective bargaining unit represented by an employee organization certified in accordance with the provisions of section four of chapter one hundred and fifty E.”) The appeal proceeded as one related to Ms. Wu’s individual request and the inquiry focused on her individual duties. *Palmieri v. Department of Revenue*, 26 MCSR 180 (2013) (“When reviewing reclassification appeals, the [Appointing Authority] only looks at the duties of the Appellant.”) (internal citations omitted.)

functional supervision over that same number of personnel. “Functional supervision” is supervision of “certain, but not all work activities, or over some or all work activities on a temporary basis.” (Exhibit R6.)

17. The basic purpose of the position is to “coordinate, monitor, develop and implement programs” for an agency. *Id.*

18. Generally, incumbents in this PC I position

coordinate and monitor assigned program activities; review and analyze data concerning agency programs; provide technical assistance and advice to agency personnel and others; respond to inquiries; maintain liaison with various agencies and perform related work as required. *Id.*

19. The Form 30 for a PC I includes a “General Statement of Duties and Responsibilities.”

Incumbents are expected to “provide administrative support to Management and Collections staff in connection with assigned unit activities...” (Exhibit R8.)

20. Specifically, the duties of a PC I include monitoring the daily work in the Collections

Bureau, in shared mailboxes, work queues and various computer programs, entering data and scanning documents into various databases, processing incoming and outgoing mail and processing payments made to DOR after researching and documenting how to properly apply a taxpayer’s payment. A PC I is also expected to perform various support staff activities, such as ordering and maintaining office supplies, storing records and coordinating the use of meeting spaces. A PC I’s duties include providing “on the job training and orientation to employees of a lesser grade.” (Exhibit R8.)

21. A PC I classification requires that an incumbent:

- a) is responsible for and monitors the smooth operation of a computer program or project(s) at DOR;

- b) possesses sufficient analytical skills so they know how to research and resolve problems that arise within the program or project for which they are responsible;
- c) possesses the analytical skills necessary to determine how to properly and effectively distribute work to employees;
- d) is able to train and orient employees; and
- e) provides administrative support to DOR management. (Testimony, Campbell.)

22. In July 2022, Ms. Wu completed the Interview Guide that Ms. Campbell had given her in connection with her reclassification request. (Exhibit R4; Testimony, Campbell.)

23. In the Interview Guide, Ms. Wu requested reclassification of her position because of what she described as an increase in duties. She stated that she had been working on tasks that had not previously been assigned to her group, including “DIB Virtual Voucher⁸ payment correction...processing check balance and payment on Fairfax system” and also because she was taking on additional work to support other work groups, including in the areas of document preparation and data entry. (Exhibit R4.)

24. Ms. Wu acknowledged that she had no supervisory responsibilities and no direct subordinates reporting to her for supervision over all or any portion of their job assignments. *Id.*

25. Once the Interview Guide was completed, Ms. Campbell also interviewed Ms. Wu so that Ms. Wu could provide additional information about her duties as a CO I and why she believed her position should be reclassified to a PC I. (Testimony, Campbell.)

26. Ms. Wu strongly believes that those in her group deserve reclassification because of their many contributions to the work that DOR has done before, during and after the pandemic.

⁸ There was no testimony or additional documentary evidence that would explain what this process entailed.

She had expected that her group's position would be reclassified once her then-supervisor had her position reclassified. (Testimony, Wu.)

27. When she was asked for any additional information, Ms. Wu said she did not know she could request reclassification until her supervisor was successful in making a request for it. She said, in pertinent part, "Meanwhile, our job duties increase without any consideration for a title reclassification." (Exhibit R4.)

28. By letter dated September 26, 2023, which the Appellant received on October 13, 2023, HRB preliminarily denied the Appellant's request for reclassification of her position to a PC I. (Exhibit R2; Stipulation of the parties.)

29. In so doing, HRB focused on the duties outlined in the Classification Specification for a PC I and determined that Ms. Wu had not shown that she performed the six distinguishing duties listed therein for a majority of her time. Those duties are:

- 1) Coordinates and monitors assigned program activities to ensure effective operations and compliance with established standards.
- 2) Reviews and analyzes data concerning assigned agency programs to determine progress and effectiveness, to make recommendations for changes in procedures, guidelines, etc. and to devise methods of accomplishing program objectives.
- 3) Provides technical assistance and advice to agency personnel and others concerning assigned programs to exchange information, resolve problems and to ensure compliance with established policies, procedures and standards.
- 4) Responds to inquiries from agency staff and others to provide information concerning assigned agency programs.
- 5) Maintains liaison with various private, local, state and federal agencies and others to exchange information and/or resolve problems.
- 6) Performs related duties such as attending meetings and conferences; maintaining records; and preparing reports." (Exhibit R2.)

30. By email dated November 3, 2023, the Appellant submitted a classification appeal to HRD, seeking the classification of PC I. (Exhibit R3.)

31. The Appellant filed a timely appeal with the Commission on May 29, 2024. (Stipulation of the parties.)

32. By letter dated June 26, 2024, HRD denied the Appellant's request. (Exhibit 9; Stipulation of the parties.)

DISCUSSION

Legal Standard

General Laws c. 30, § 49 states, in relevant part,

A manager or an employee of the commonwealth objecting to any provision of the classification affecting the manager or employee's office or position may appeal in writing to the personnel administrator.... 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.

The Appellant has the burden of proving that she is improperly classified. *Massenberg v. MassDOT*, 35 MSCR 123, 128 (2022). To do so, the Appellant must show that she performs the level-distinguishing duties of a PC I more than 50% of the time, on a regular basis. *Id.*; *Bhandari v. Executive Office for Administration & Finance*, 28 MSCR 9, 14 (2015) (employee must perform the duties of the higher level position a majority of the time); *Gaffey v. Department of Revenue*, 24 MSCR 380, 381 (2011) (more than 50% of the time); *Bowen v. Department of Conservation & Recreation*, 24 MCSR 603, 604 (2011); *see also Roscoe v. Department of Environmental Protection*, 15 MSCR 47, 48 (2002) ("The determining factor of a reclassification is the distribution of time that an individual spends performing the function of a job classification.") Additionally, "[w]here duties are equally applicable to both the lower and higher titles, although they may be described slightly differently for each title, those types of

overlapping duties are not ‘distinguishing’ duties of the higher title.” *Saunders v. Department of Labor Standards* 32 MSCR 413, 415 (2019).

Analysis

The evidence establishes that the Appellant is a long-tenured, valued employee of the DOR who works diligently to perform the duties required of her CO I position. However, based on the testimony and evidence presented in this appeal, she has not shown that she performs any of the level-distinguishing duties of a PC I, or that she performs those duties for the majority of her time. Consequently, the Appellant has not met her burden to establish that she is entitled to have her position reclassified. I therefore recommend that the DOR’s decision to deny Ms. Wu’s request to have her position reclassified as a PC I be affirmed.

As an initial matter, the PC I position is a supervisory position. Incumbents are expected to oversee the work of employees of a lesser grade. There is no dispute that Ms. Wu does not supervise any employees—she admitted as much in the Interview Guide that she completed and the testimony of the DOR witnesses also makes that clear. When one of the level-distinguishing duties is that the person in the higher classified position acts as a supervisor, the lack of supervisory duties is itself a sufficient ground to deny reclassification. *Crawford v. Department of Revenue*, 28 MCSR 500 (2015); *MacLean v. Department of Conservation & Recreation*, 24 MCSR 573, 575 (2011). Therefore, the DOR properly denied Ms. Wu’s reclassification request.

As is further discussed below, an analysis of the other level-distinguishing duties of a PC I leads to the same result. As stated above, an employee seeking reclassification must demonstrate that she performs the majority of the level-distinguishing duties more than 50% of the time. *Bowen*, 24 MCSR at 604. Of the six level-distinguishing duties in the Classification

Specification for a PC I, Ms. Wu has not proven that she does any of them, let alone that she does those activities for the majority of her time.

The evidence is clear that Ms. Wu works diligently to process payments made to DOR, and that she occasionally performs research and is willing to take on additional work as required. However, the scope of duties about which she testified were within her current classification and were not the level-distinguishing duties of a PC I. For example, there is no dispute that part of Ms. Wu's current duties include processing some of the mail that the DOR receives, as well as researching where and how to properly apply payments that are sent to DOR. These duties, however, are common to both the CO I classification that she holds and to the PC I classification that she seeks. They cannot be used to support her claim that she is entitled to have her position classified as a PC I. *Lannigan v. Department of Developmental Services*, 30 MCSR 494, 500 (2017) (evidence of duties that do not exclusively fall within the sought-after, higher-graded position will not be factored into a calculation that could lead to reclassification.)

The DOR properly focused its reclassification inquiry on the level-distinguishing duties in the Classification Specification of the PC I. *Strong v. Department of Public Health*, 37 MCSR 192, 199 (2024) (HRD-approved Classification Specification document "traditionally has served as the touchstone for reclassification appeals"). The DOR witnesses consistently and credibly testified about the first two level-distinguishing duties of a PC I. These are: a) "coordinates and monitors assigned program activities to insure effective operations and compliance with established standards"; and b) "reviews and analyzes data concerning assigned agency programs to determine progress and effectiveness, to make recommendations for changes in procedures, guidelines, etc. and to devise methods of accomplishing program objectives".

The DOR has proven that these duties are qualitatively different from the duties that Ms. Wu is performing as a CO I. This is because they require a PC I to be responsible for the effective operation of the program or project that he or she oversees and that the PC I use some level of analytical skill – the PC I exercises some independent judgment (and if necessary, engages in problem solving) – to ensure that this is accomplished. Ms. Wu has proven that her duties as a CO I are without question important to the smooth operation of the DOR Processing Unit of which she is a part, but she did not show that she is “coordinating or monitoring” the effective operation of the unit, or that she is doing so for the majority of the time as would be required to reclassify her position from a CO I to a PC I.

With respect to the remaining level-distinguishing duties, Ms. Wu was similarly not able to demonstrate that she engaged in any of them, let alone that she did so for the majority of her time. There is no evidence she spends any time serving as a liaison to other units or that she is providing technical assistance or advice or responding to inquiries from other DOR employees about the Processing Unit. There was also no evidence that she advises outside agencies that inquire about any particular program or project within her unit, and in fact Ms. Wu made no argument that she does so as part of her current duties. There was no evidence that she is responsible for or that she prepares reports for her superiors at DOR. Consequently, DOR properly denied Ms. Wu’s request to have her position classified as a PC I.

Ms. Wu demonstrated that she is an important team member and in fact she was recognized in her EPRS as being willing to help employees with the processing of mail and other clerical tasks during busy times such as the tax season. I also credit her testimony that she occasionally participates in the trainings that DOR may have offered or required. However, engaging in sporadic additional duties is insufficient to support a request for reclassification.

Saunders v. Department of Labor Standards, 32 MCSR 413, 416 (2019). Although Ms. Wu's willingness to assist her coworkers or to improve her skills through training is admirable, she is not entitled to have her position reclassified as a result.

For all of the foregoing reasons, I recommend that the DOR's decision to deny the Appellant's request to reclassify her position from a CO I to a PC I be affirmed.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Melinda E. Troy

Melinda E. Troy
Administrative Magistrate

Dated: April 22, 2025