

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

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

MARIE McBRIDE,
Appellant

C-15-18

v.

DEPARTMENT OF INDUSTRIAL ACCIDENTS,
Respondent

Appearance for Appellant:

Pro Se
Marie McBride

Appearance for Respondent:

Suzanne Quersher, Esq.
Director of Labor Relations
EOLWD
19 Staniford Street: 5th Floor
Boston, MA 02114

Commissioner:

Christopher C. Bowman

ORDER OF DISMISSAL

On January 20, 2015, the Appellant, Marie McBride (Ms. McBride), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the Department of Industrial Accidents (DIA) and the state's Human Resources Division (HRD), to deny her request for reclassification from the position of Administrative Secretary I to Program Coordinator I.

On February 24, 2015, I held a pre-hearing conference at the offices of the Commission, which was attended by Ms. McBride and counsel for DIA.

During the pre-hearing conference, Ms. McBride acknowledged that she does not perform a majority of the duties of a Program Coordinator I more than 50% of the time. She does not coordinate, monitor, test or analyze programs, does not provide technical assistance to agency personnel and others, and does not develop or implement programs. She spends the majority of her time providing the valuable function of walking potential claimants through questions and answers.

The basis of Ms. McBride's appeal is that two (2) other employees, who she believes perform the same duties and responsibilities of her, are classified as Program Coordinator Is.

DIA did not dispute that this may be the case, but suggested that those Program Coordinator Is were likely “grandfathered” into that title based on their prior assignment(s) and, that the positions have been “flagged”, so that when those incumbents leave the position, the positions will be filled via the same title as Ms. McBride.

I provided DIA with thirty (30) days to file a Motion for Summary Decision and Ms. McBride with thirty (30) days thereafter to file a reply. On March 23, 2015, DIA filed a Motion for Summary Decision. Ms. McBride did not file a reply / opposition.

Analysis

As correctly stated in DIA’s Motion for Summary Decision, “when reviewing reclassification appeals, the [Appointing Authority] only looks at the duties of the Appellant.” Palmieri v. Department of Revenue, 26 MCSR 180 (2013), citing Gaffney v. Department of Revenue, 24 MCSR 380 (2011). “The possibility that some employees ‘are misclassified could be attributed to other preexisting factors, including collecting bargaining considerations.” Palmieri citing Hankerson v. Department of Revenue, C-08-96 (2010). “If one employee’s misclassification could or should lead to other employees’ misclassification, then one misclassification error could undo all or most of the civil service system: One employee’s misclassification could become the basis for a second employee’s misclassification and, so on.” Palmieri at 183.

Since Ms. McBride does not argue that she performs the majority of the duties of a Program Coordinator I more than 50% of the time and because the alleged misclassification of other employees cannot form the basis for a classification appeal, Ms. McBride’s appeal must be dismissed.

Conclusion

For the reasons stated above, DIA’s Motion for Summary Decision is allowed and Ms. McBride’s appeal is hereby ***dismissed***.

Civil Service Commission

/s/ Christopher Bowman
Christopher C. Bowman
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell and Stein, Commissioners) on May 14, 2015.

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:

Marie McBride (Appellant)

Suzanne Quersher, Esq. (for Respondent)