

STATE OF VERMONT
VERMONT LABOR RELATIONS BOARD

GRIEVANCE OF:

MONIQUE CRETE and
ELIZABETH BEAUMONT

Docket #77-27S

FINDINGS OF FACT, OPINION AND ORDER

Statement of the Case.

This is an appeal brought by the Vermont State Employees' Association, Inc. ("VSEA") on behalf of its member, Monique Crete, and Elizabeth Beaumont, Ms. Crete's successor in the position of Motor Vehicle Driver Services Unit Leader in the Vermont Department of Motor Vehicles. This position, after a classification audit and pay scale allotment, was classified in pay scale 6. This grievance sought reclassification at pay scale 8 and a retroactive award of back pay. By notice of decision dated June 17, 1977, the Board denied the grievance. This opinion is issued pursuant to said notice of decision.

Findings of Fact.

1. Following the filing of this grievance on December 15, 1976, by the VSEA on Ms. Crete's behalf, the VSEA moved on May 11, 1977, to add Elizabeth Beaumont as a party. The Board advised the parties on May 17, 1977, that the said motion was granted, after hearing, since Ms. Beaumont succeeded Ms. Crete as the holder of the position in issue here.

2. Grievants appeal the classification of the position of Motor Vehicle Driver Service Unit Leader as a pay scale 6. The position is within the Vermont Agency of Transportation, Department of Motor Vehicles, Driver Services Division and includes the following: (a) interviewing and selecting employees; (b) evaluating new trainees; (c) supervisory responsibilities; (d) duties pertaining to license and renewal applications; (e) accounting responsibilities; (f) duties pertaining to the custody and maintenance of files; (g) duties pertaining to school bus and motorcycle applications; (h) co-ordinating and supervising duties with the Document Control and Public Services Units; (i) responsibility for ratings in the entire license area; (j) responsibility for batching the work for data entry by information management, according to rating instructions; (k) this Unit Leader is the quality control point for all work done by the examiners throughout the State; and (l) although third in line in command, this Unit Leader is often in charge of the entire license area.

3. Grievant Crete was employed by the Department of Motor Vehicles for a two and onehalf year period and left the position of Motor Vehicle Driver Services Unit Leader on or about March 7, 1977. Grievant Beaumont became Motor Vehicle Driver Services Unit Leader on or about 7, 1977, succeeding grievant Crete in this position.

4. In June, 1976, the Department of Motor Vehicles requested that the Department of Personnel review the classification of five positions within the Department of Motor Vehicles as follows:

<u>Position</u>	<u>Number</u>	<u>Pay Scale</u>	<u>Incumbent at time of review</u>
Typist B	MV-24	4	Jade Ryder
Clerk A	MV-31	2	Brenda Cruz
Clerk B	MV-44	4	Monique Crete
Typist B	MV-100	4	Valerie Deforge
Typist B	MV-126	4	Mona Ritchie

5. As a result of the review, the following action was taken by the Department of Personnel:

(i) The Typist B (pay scale 4) position of Jade Ryder was reallocated to class Typist C at pay scale 8.

(ii) The Clerk A (pay scale 2) position of Brenda Cruz was reallocated to class Clerk B at pay scale 4.

(iii) The Typist B positions (pay scale 4) of Ms. Deforge and Ms. Ritchie and Clerk B position (pay scale 4) of Grievant Crete were reallocated to the new class of Motor Vehicle Driver Services Unit Leader at pay scale 6.

6. Prior to the upgrading of the classifications of the above positions, the Department of Personnel by its classification of Ms. Fay Cliche, and by its Director of Personnel Mr. Claude Magnant, performed on-site review of the positions, interviewed the incumbents and supervisor, reviewed job descriptions prepared by the incumbents, applied the Hay point system, a recognized tool in job classification matters, and presented its tentative findings to the Department of Motor Vehicles for comment.

7. Mr. Magnant presented the Department of Personnel's conclusions as to the proper classification of these positions at a meeting with the Department of Motor Vehicles in September, 1976, at which Laura Parker, Director of the Licensing Section of the Driver Services Division and John Crosby, License Supervisor of the Licensing Section were present. The comments at this meeting of the representatives of the Department of Motor Vehicles did not reflect any disagreement in respect to the Department of Personnel's proposed action as to grievant's position.

8. Mr. Crosby supervised the grievants when they held the position in issue. He also supervises Ruth Stanley (pay scale 8), Marge Sturtevant (formerly

held by Jade Ryder), (pay scale 8), and all employees who were supervised by Meses. Stanley, Sturtevent and Beaumont. In his position as such supervisor, Mr. Crosby is intimately familiar with the everyday workings of the Licensing Unit. The Unit Leaders supervised by Mr. Crosby receive closely similar supervisory treatment from Mr. Crosby and themselves have similar supervisory responsibilities for employees subordinate to them..

9. The reclassification of Ms. Jade Ryder from Typist B (pay scale 4) to Typist C (pay scale 8) reflected the Department of Personnel's judgment based on representations of the Department of Motor Vehicles and on site review that Ms. Ryder carried an additional supervisory responsibility as the Assistant License Supervisor to License Supervisor John Crosby.

10. The Department of Personnel was not requested to audit but did examine for comparison the positions of Ms. Ruth Stanley, Document Control Unit Leader (pay scale 8). Ms. Stanley's position had been reclassified in 1975. The position of Document Control Unit Leader carries the responsibility of controlling the data processing for the licensing section.

11. The Department of Personnel as a result of its review of the subject positions created the new class of Motor Vehicle Driver Services Unit Leader.

12. The new classification was created to reflect the Department of Personnel's judgment that the positions of the grievant Crete, Ms. Deforge and Ms. Ritchie should be upgraded from pay scale 4 but that the duties and responsibilities were not appropriate to pay scale 8.

13. The grievant Crete requested the Advisory Classification Committee to review the Department of Personnel's action of September, 1976, which upgraded grievants' position from pay scale 4 to pay scale 6.

14. The Advisory Classification Committee consists of three persons outside and independent of the Department of Personnel who are trained and experienced in personnel work, including matters of position classification within the State

system. The present composition of the Classification Review Committee is Mr. Day, Personnel Officer (Department of Highways), Mr. Marasco, Personnel Officer (SRS) and Mr. Breaw, Personnel Officer (Department of Taxes). None of the members has any professional connection with the Department of Motor Vehicles. This committee provides non-binding advice to the Commissioner of Personnel.

15. The Advisory Classification Committee made an independent review of the Department of Personnel's action which included the testimony of grievant and her supervisor. The Advisory Classification Committee recommended to the Commissioner of Personnel that the action of the Department of Personnel in the matter of the grievants' position be upheld.

Conclusions of Law and Opinion.

16. It is the position of this Board, long held, that a State employee who challenges the classification of his job position and must establish by a preponderance of the evidence that he is entitled to the relief sought. This Board will not substitute its judgment in classification matters for that of the Agency's charged with responsibility in classification matters without a clear mandate from the evidence that intervention of this Board is needed. Beginning with Grievance of Roger R. Mitchele, Vermont State Employees Labor Relation Board Docket No. 70-2, this Board has consistently held that it will not overturn decisions of properly appointed officers of the State without a showing of illegality, abuse of managerial and discretionary duties, rights and powers, or that the action taken was arbitrary and capricious. See also Grievance of Dr. John Stark and Dr. Karl Treal, Vermont State Employees Labor Relations Board Docket No. 70-3, Grievance of Donald McMahon, Docket 77-28S, and Grievance of Shepard Carassi, Docket No. 77-1S. The same rule is to be applied in this matter

17. The grievance in this matter must be denied because the grievants have failed to bear their burden of proof. The Board is unable to find from the

evidence before it that error was committed when the position in issue was classified in pay scale 6. The Board, therefore, affirms that clarification.

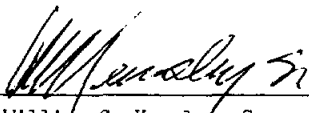
18. The foregoing discussion is sufficient to dispose of the issues raised by the grievants. During the course of the hearings on this grievance and the Board's deliberation, however, the Board has made other observations and conclusions which it wishes to express even though not essential to the decision in the instant matter. The Board has observed an impression on the part of certain State employees as to the ineffective and unjust appearance of the existing system for the review of classification questions. This impression of State employees may lead to a large number of classification cases which the Board does not feel it is necessarily the ideal arbiter even though this responsibility is imposed on the Board by existing law and the terms of the existing collective bargaining agreement.

19. The Board recommends that the Advisory Classification Committee be expanded to perhaps five members and that expanded membership include persons other than personnel officers. The existing Board consists of three persons, all of whom are from State agencies other than the Department of Personnel who are trained and experienced in personnel work. The Board believes that the appearance of a bureaucratic juggernaut could be avoided if peers of the complaining employees were also on the Board, including ordinary workers without professional responsibilities in the personnel area, who are from the lower grades. This expansion would add breadth of background to the Committee's membership which in turn may add breadth to the range of considerations brought before the Committee. The Board does not make this suggestion in criticism of past actions of the Committee; rather the suggestion is made to improve the image of the system and the appearance of justice in the hope to foster harmonious and productive relations between the State Government and its employees.

20. The Board also notes that a large number of classification review cases have in the past been generated because the bulk of positions in State government, approximately 1700, are in pay scales 4, 6, and 8. The Board approves of and recommends for consideration the comments on this situation which are contained in the report of the Federal Administrative Services Committee on this subject.

DATED this *7th* day of September, 1978.

FOR THE VERMONT LABOR RELATIONS BOARD



William G. Kemsley, Sr.