



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Marcello Mangano,
Department of Agriculture

CSC Docket No. 2016-1730

Classification Appeal

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ISSUED: **NOV 3 0 2016** (JET)

Marcello Mangano appeals the attached decision of the Division of Agency Services (Agency Services), which found that the proper classification of his position with the Department of the Agriculture is Supervisor, Seed Certification and Control. The appellant seeks a Research Scientist 2 classification.

The record in the present matter establishes that the appellant’s permanent title is Principal Seed Analyst. The appellant pursued the matter of the reclassification of his position with Agency Services. Agency Services reviewed all documentation supplied by the appellant, including a Position Classification Questionnaire (PCQ) and an organizational chart. It found that the appellant’s position is located in the Division of Plant Industry, Department of Agriculture and that he supervised a Chemist 1 and a Laboratory Service Worker 1.¹ Based on its review of the record, Agency Services concluded that the appellant’s position was properly classified as a Supervisor, Seed Certification and Control and assigned him an effective date of July 11, 2015. In response to the classification determination, the appointing authority reassigned duties consistent with the appellant’s permanent title of Principal Seed Analyst effective November 10, 2015.

On appeal, the appellant disagrees that Supervisor, Seed Certification and Control, is the appropriate classification of his position since he does not perform field work. Specifically, the appellant asserts that the classification determination

¹ The appellant’s supervisor is Joseph Zolowski, Director, Division of Plant Industry. Agency Services’ initial decision incorrectly listed his supervisor as Tena Griggs, a Senior Fiscal Analyst.

is incorrect since the examples of work section in the job specification for Supervisor, Seed Certification and Control, indicates that incumbents in that title primarily perform field work. Further, the appellant contends that field work does not appear as an example of work in the job specification for Research Scientist 2 and that his duties are primarily performed in the laboratory. The appellant asserts that his duties extend beyond the work performed by a Supervisor, Seed Certification and Control as incumbents in that title are responsible for ensuring that seeds are sold in compliance with the law, which he does not perform. The appellant adds that he listed on the PCQ that only 15% of his duties include seed testing. The appellant explains that upon the retirement of his former supervisor, a Research Scientist 2, he was assigned those duties, including supervising employees. The appellant provides additional examples of his duties, which include, among other things, conducting tests and directing the laboratory, and he states that he reports directly to the division director.

In response, Agency Services maintains that the classification determination correctly found that the proper classification of the appellant's position was Supervisor, Seed Certification and Control. In addition, Agency Services asserts that the Research Scientist 2 title is not a supervisory title and would be an inappropriate classification for the appellant's position. Moreover, Agency Services contends that the appointing authority confirmed that it has reassigned any out-of-title duties the appellant was performing.

CONCLUSION

The definition section of the job specification for the title Research Scientist 2 states:

Under general supervision of a Research Scientist 1 or other supervisory official in a State department, institution, or agency, conducts research projects or participates in functional programs in a specified field; assumes appropriate administrative and scientific duties as delegated; heads complex work projects and makes recommendations to the supervisor; does related work.

The definition section of the job specification for the title Supervisor, Seed Certification and Control states:

Under direction of a supervisory official in the Department of Agriculture, supervises certification programs related to production of selected quality seeds and plant materials; coordinates and supervises field inspection and sampling programs for seed certification and seed control programs; supervises and performs regulatory and enforcement action under these programs; does other related duties as required.

In the instant matter, based on a review of the PCQ submitted by the appellant and related documentation, Agency Services appropriately determined that the proper classification of the appellant's position was Supervisor, Seed Certification and Control. As correctly indicated in Agency Services' determination, the appellant's primary duties include supporting regulatory programs; developing laboratory tests; investigating new initiatives beneficial to plant industries; testing feed fertilizer samples; reviewing test results; making recommendations; monitoring supplies; monitoring the operating condition of the laboratory; and supervising a Chemist 1 and a Laboratory Service Worker 1. These duties are consistent with a Supervisor, Seed Certification and Control classification. For example, the PCQ indicates that 15% of his duties constitute testing seeding samples; 15% of his duties constitute supervising the testing of feed and fertilizer; 15% of his duties constitute laboratory testing and analytic *support* for the medical marijuana program; and 15% of his duties constitute providing *support* to the nursery program. Thus, the majority of the appellant's duties are consistent with the title of Supervisor, Seed Certification and Control.

Regardless, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized. With regard to the appellant's argument that the examples of work in the job specification for Supervisor, Seed Certification and Control, indicate that field work is performed in that title, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Therefore, in a case such as this, where the definition portions of the job specifications can be applied to the appellant's duties as a Supervisor, Seed Certification and Control, the determinative factor is necessarily what duties are primarily assigned to an employee. Additionally, although the appellant essentially argues that his former supervisor performed similar duties while serving as a Research Scientist 2, it is noted that a classification appeal cannot be based solely on a comparison to the duties of another position, especially if that position is misclassified.

It is noted that the appellant provided a new PCQ with this appeal indicating duties that were assigned after he filed the subject classification appeal with Agency Services. However, the foundation of position classification, as practiced in New Jersey, is the determination of duties and responsibilities being performed at a given point in time as verified by this agency through an audit or other formal study. Thus, classification reviews are based on a current review of assigned duties and any remedy derived therefrom is prospective in nature since duties which may have been performed in the past cannot be reviewed or verified, while newly

assigned duties must be verified by a new audit. This agency's established classification review procedures in this regard have been affirmed following formal Civil Service Commission review and judicial challenges. See *In the Matter of Community Service Aide/Senior Clerk (M6631A)*, *Program Monitor (M62780)*, and *Code Enforcement Officer (M00410)*, Docket No. A-3062-02T2 (App. Div. June 15, 2004) (Accepting policy that classification reviews are limited to auditing current duties associated with a particular position because it cannot accurately verify duties performed by employees in the past). As such, the new PCQ he filed after the classification determination was issued as part of this appeal cannot be considered. However, as noted above, Agency Services has confirmed that the appointing authority has assigned the appellant duties consistent his permanent title of Principal Seed Analyst effective November 10, 2015. Therefore, no basis exists to currently reclassify his position to Supervisor, Seed Certification and Control. As such, since the appellant performed out-of-title duties, and the appointing authority confirms that the out-of-title duties were removed, the Commission finds that the appellant is entitled to differential pay from July 11, 2015 the pay period immediately after 14 days from the date this agency received the initial classification appeal, to November 14, 2015, the beginning of the first pay period after the appointing authority removed the out-of-title duties. See *N.J.A.C. 4A:3-3.9(e)3i*.

ORDER

Therefore, it is ordered that this appeal be denied but the appellant be awarded differential pay from July 11, 2015 to November 14, 2015.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 23rd DAY OF NOVEMBER, 2016



Robert M. Czech
Chairperson
Civil Service Commission

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and
Correspondence

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Attachment

c: Marcello Mangano
Linda Krajain
Kenneth Connolly
Joseph Gambino



Chris Christie
Governor
Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
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P. O. Box 313
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Robert M. Czech
Chair/Chief Executive Officer

October 13, 2015

Mr. Marcello Mangano

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**RE: Classification Appeal - Principal Seed Analyst
AS #06150290, Position #008698, EID #000312803**

Dear Mr. Mangano:

This is to inform you, and the Department of Agriculture of our determination concerning your classification appeal. This determination is based upon a thorough review and analysis of all information and documentation submitted.

Issue:

You are appealing your current permanent title of Principal Seed Analyst (R24) is not consistent your current assigned duties and responsibilities. You contend that the title Research Scientist 2 (P28) is consistent with the duties that you currently perform.

Organization:

According to the organizational chart that was submitted, your position is assigned to the Division of Plant Industry. You currently report directly to Tena Griggs, Senior Fiscal Analyst (P21) and have supervisory responsibility for one (1) Chemist 1 (P19); and one (1) Laboratory Service Worker 1 (O08).

Finding of Fact:

The primary responsibilities of your position include, but are not limited to the following:

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- Supporting the regulatory programs of nursery programs, apiary, and biological control by supervising and performing laboratory tests as needed.
- Investigating and/or developing new initiatives in laboratory testing and analytical support that is beneficial to New Jersey plant industries.
- Supervising the testing of the feed and fertilizer samples submitted so that the labeled components are in accordance with the Department's Agricultural Chemistry Program.
- Supervising, developing and providing laboratory testing for the New Jersey Medical Marijuana Program and the New Jersey Department of Health, Public Health and Environmental Laboratories (NJDOH/PHEL) by testing cannabis samples.
- Reviewing all tests and/or finalized results and/or making recommendations.
- Monitoring supplies and operating condition of laboratory equipment and machinery.

Review and Analysis:

Your position is currently classified by the title Principal Seed Analyst (R24-02464). The definition section of the job specification for this title states:

“Under the general direction of a supervising officer in the Department of Agriculture, plans, supervises, and controls the activities of the seed laboratory; performs complex, technical, analytical work, and provides special seed testing services for the general public when necessary; does other related work.”

The definition section of the job specification for title Research Scientist 2 (P28-03165) states:

“Under general supervision of a Research Scientist 1 or other supervisory official in a state department, institution, or agency, conducts research projects or participates in functional programs in a specified professional field; assumes appropriate administrative and scientific duties as delegated; heads complex projects and makes recommendations to the supervisor; does related work.”

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The title Research Scientist 2 is not a supervisory in nature. According to your Position Classification Questionnaire (DPF-44S) and Performance Assessment Review (PAR) you are responsible for signing and/or preparing PARS for: one (1) Chemist 1 (P19); and one (1) Laboratory Service Worker 1 (O08). Therefore this title would not be an appropriate classification for the duties and/or responsibilities that you perform.

The definition section of the job specification for the title Supervisor, Seed Certification and Control (R25-02453) states:

Under direction of a supervisory official in the Department of Agriculture, supervises certification programs related to production of selected quality seeds and plant materials; coordinates and supervises field inspection and sampling programs for seed certification and seed control programs; supervises and performs regulatory and enforcement action under these programs; does other related duties as required."

The title Supervisor, Seed Certification and Control supervises certification programs, coordinates and supervises field inspection and sampling programs and performs regulatory and enforcement action under these programs.

This title is utilized as a primary or first level supervisory position. The essential component of supervision is the responsibility for the administration of formal performance evaluations for subordinate staff. Supervisory duties also include ensuring that assigned tasks are performed efficiently on a day-to-day basis and the training of subordinates.

The assigned duties and responsibilities that you perform are significantly descriptive of the tasks assigned to the title Supervisor, Seed Certification and Control (R25-02453).

Determination:

Based on the findings of fact above, it is my determination that the assigned duties and responsibilities performed by your position would be properly classified by the title Supervisor, Seed Certification and Control (R25-02453) with an effective date of July 11, 2015.

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The Civil Service Commission will work with the Department of Agriculture to effectuate this transaction.

Please be aware that an incumbent's eligibility in meeting specification requirements is not the same as properly classifying the duties of the position. It is the responsibility of the Appointing Authority to ensure an incumbent meets the eligibility requirements prior to any appointment to the title.

The New Jersey Administrative Code 4A:3-3.5©1 states that, "within 30 days of the receipt of the classification determination, unless extended by the Commissioner in a particular case for good cause, the Appointing Authority shall either effect the required change in the classification of an employee's position; assign duties and responsibilities commensurate with the employee's current title; or reassign the employee to the duties and responsibilities to which the employee has permanent rights. Any change in the classification of a permanent employee's position whether promotional, demotional or lateral, shall be effected in the accordance with all applicable rules."

Please be advised that in accordance with *N.J.A.C.* 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. This appeal should be addressed to: Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, PO Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Joseph Ridolfi, Team Leader
Agency Services

JR/rmd

c: Ms. Linda Krajain, Department of Agriculture
PMIS Unit, CSC

