



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of James Cook,
Department of the Treasury

CSC Docket No. 2022-214

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Classification Appeal

ISSUED: JANUARY 21, 2022 (RE)

James Cook appeals the decision of the Division of Agency Services (Agency Services) which found that his position with the Department of the Treasury is properly classified as Assistant Engineer-In-Charge of Maintenance 1. The appellant seeks an Engineer-In-Charge of Maintenance 2 job classification in this proceeding.

The appellant was regularly appointed to Assistant Engineer-In-Charge of Maintenance 1 (S25) on August 23, 2018, and requested a classification review of his position located in the New Jersey Department of the Treasury, Division of Management and Construction, Building Management and Operations - Justice/Capital Place/Trades/Taxation. The appellant reports to a Building Manager (S30), and has supervisory responsibilities for an Assistant Engineer-In-Charge of Maintenance 2 (S23), one Mechanical Equipment Specialist, and two Senior Repairers. A thorough review of all applicable documentation was performed. This review found that the appellant's assigned duties and responsibilities, as detailed in Agency Services' decision, were commensurate with his permanent title of Assistant Engineer-In-Charge of Maintenance 1.

On appeal, the appellant argues that he and his supervisor agree that his duties are not commensurate with Assistant Engineer-In-Charge of Maintenance 1, but are those of the requested title, and his Performance Assessment Reviews (PARs) remain exceptional. He states that his duties are performed in large building totaling 1.1 million square feet, and are equivalent to the examples of work in the job specification for Engineer-In-Charge of Maintenance 2. He maintains

that he is the only employee with the certification to maintain the underground fuel storage tank at the R.J. Hughes Justice Complex. He argues that the incumbent Engineer-In-Charge of Maintenance 2 was assigned to the complex due to a grievance brought against him at another complex, that the incumbent's lack of knowledge is being filled by the appellant, and the incumbent is scheduled to retire September 1, 2021.¹ The appellant explains that his duties are not sufficiently explained in his PAR, and that the organizational structure has changed so that he performs the duties of the requested title. The appellant provides a document indicating that he supervises an Assistant Engineer-In-Charge of Maintenance 2, a Building Service Coordinator 1 and a Building Service Coordinator 2.

CONCLUSION

N.J.A.C. 4A:3-3.9(e) states that in classification appeals, the appellant shall provide copies of all materials submitted, the determination received from the lower level, statements as to which portions of the determination are being disputed, and the basis for appeal. Information and/or argument which was not presented at the prior level of appeal shall not be considered.

N.J.A.C. 4A:3-3.1(b)1 and 3 provides that positions shall be assigned by the Commission and be assigned the title which describes the duties and responsibilities to be performed and the level of supervision exercised and received and, in State service, the level of compensation.

N.J.A.C. 4A:2-1.4(c) provides that the appellant has the burden of proof on appeal.

The definition section of the job specification for Assistant Engineer-In-Charge of Maintenance 1 states:

Assists an Engineer-in-Charge of Maintenance 1 in a State department, institution, or agency by supervising during a designated tour of duty the operation and maintenance of mechanical equipment and repair and maintenance of buildings and grounds; does other related duties.

The definition section of the job specification for Engineer-In-Charge of Maintenance 2 states:

Under direction of a supervisory official at a State department, institution, or agency with a large fairly complex maintenance system, has charge of the operation, maintenance, and adjustment of

¹ Agency records confirm that the Engineer-in-Charge of Maintenance 2 retired effective September 1, 2022.

mechanical installations and equipment, and repair and maintenance of buildings and grounds; does other related duties.

At the outset, it is noted that the outcome of position classification is not to provide a career path to the incumbent, but rather to ensure the position was classified in the most appropriate title available within the State's classification plan. See *In the Matter of Patricia Lightsey* (MSB, decided June 8, 2005), *aff'd on reconsideration* (MSB, decided November 22, 2005). Further, how well or efficiently an employee does his or her job, length of service, volume of work and qualifications have no effect on the classification of a position currently occupied, as *positions*, not employees are classified. See *In the Matter of Debra DiCello* (CSC, decided June 24, 2009).

With that said, Agency Services determined that the duties of the position included assisting the Building Manager with assigned projects; coordinating with the Engineer-in-Charge of Maintenance 2 to ensure that proper stock of materials is available; overseeing the daily operation of HVAC, electrical, plumbing, fire, emergency, environmental and security systems; supervising four subordinates; creating and prioritizing maintenance work orders, including assigning and supervising work; and contacting vendors utilizing purchasing procedures to order materials, parts, supplies, and tools. Agency Services summarized the duties of the requested title then indicated that another position was classified as an Engineer-In-Charge of Maintenance 2 in the same unit, and as such, the assigned and duties and responsibilities did not rise to the level and scope of responsibility of the requested title.

In making classification determinations, emphasis is placed on the Definition section to distinguish one class of positions from another. The Definition portion of a job specification is a brief statement of the kind and level of work being performed in a title series and is relied on to distinguish one class from another. The definition sections of the job specifications for Assistant Engineer-In-Charge of Maintenance levels 1 and 2 are identical except that the 1 reports to an Engineer-In-Charge of Maintenance 1 and the 2 reports to an Engineer-In-Charge of Maintenance 2. Also, the two title series for Engineer-In-Charge of Maintenance are dependent upon the size of the system being maintained. The definition sections of the job specifications for levels 1 and 2 are identical except that the 1 works with a very large and very complex maintenance system, while the 2 works with a large fairly complex maintenance system. As such, each title series is dependent on the size of the maintenance system.

With that said, the Assistant Engineer-In-Charge of Maintenance 1 must promote to Engineer-In-Charge of Maintenance 1, while the Assistant Engineer-In-Charge of Maintenance 2 promotes to Assistant Engineer-In-Charge of Maintenance 2. The Engineer-In-Charge of Maintenance 1 is a (M) or managerial title, while the

Engineer-In-Charge of Maintenance 2 is a (S) or second level supervisory title. Nonetheless, the Assistant Engineer-In-Charge of Maintenance 1 and 2 titles are also both second-level supervisory titles.

The R.J. Hughes Justice Complex is categorized as a large fairly complex maintenance system. Based on the maintenance system, the appellant's title of Assistant Engineer-In-Charge of Maintenance 1 is too high for the assigned maintenance system. At the time of the classification review, there was an Engineer-In-Charge of Maintenance 2 in this unit, although that individual had no supervisory duties based on the organizational chart, but there was no Engineer-In-Charge of Maintenance 1. A listing of the individuals in the unit include the Building Manager, the Engineer-in-Charge of Maintenance 2, the appellant's position as Assistant Engineer-in-Charge of Maintenance 1, an Assistant Engineer-in-Charge of Maintenance 2, the three subordinates originally listed by the appellant on his PCQ, a Building Services Coordinator 1, and a Building Services Coordinator 2.

Aside from the Building Manager, the appellant is the only one assigned to supervise another supervisor. In 2015, the Commission determined that classifying employees in titles assigned to first-level and second-level supervisory employee relations groups who do not have formal performance evaluations responsibility for subordinate staff members could create a conflict of interest between incumbents who are required to supervise staff serving in the same title. *See West Orange Board of Education v. Wilton* 57 N.J. 417 (1971). In addition, it was found that a major factor in this agency's setting of the compensation levels (*i.e.*, class codes) for titles assigned to second-level supervisory employee relations group is that incumbents in these bargaining units all have the authority to recommend the hiring, firing, and disciplining of employees who supervise subordinate employees. Therefore, since October 2015, the Commission has upheld the classification standard that in order for a position to be classified in a title assigned the first-level or second-level employee relations group, incumbents are required to be the rater of employee, or subordinate-level supervisory employee, performance using a formal performance evaluation system. *See In the Matter of Alan Handler, et al.*, (CSC, decided October 7, 2015); *In the Matter of Marc Barkowski, et al.*, (CSC, decided October 19, 2016); and *In the Matter of David Bobal, et al.*, (CSC, decided November 23, 2016).

According to the original organizational chart, the prior incumbent Engineer-in-Charge of Maintenance 2 was not responsible for any supervisory duties, although he held a second level supervisory title. Nevertheless, since Agency Services' determination, the Engineer-in-Charge of Maintenance 2 has retired. Further, the appellant's title of Assistant Engineer-in-Charge of Maintenance 1 is not applicable for the maintenance system where he works, and he supervises an Assistant Engineer-in-Charge of Maintenance 2. It would also be a gross misapplication of the State classification plan to endorse the classifications of

positions in an organizational structure that consists of a one-to-one reporting relationship between a second-level supervisor and another second-level supervisor, neither of which have a first-level supervisor. The appellant does not report to an Engineer-in-Charge of Maintenance 1, which is a managerial position, but reports to the Building Manager, a higher second-level supervisory title, as did the Engineer-in-Charge of Maintenance 2. The appointing authority's organizational structure for this unit is to have the appellant in the higher title Assistant Engineer-in-Charge of Maintenance 1, even though the difference between the title series is denoted by the complexity of the buildings or system. The appointing authority is advised that it must determine the complexity of the complex and use only those titles which match the description of the buildings involved when offering promotions. At the time of the review, there was an Engineer-in-Charge of Maintenance 2 in the unit, and this small of a unit does not warrant two such classifications. Nonetheless, with the retirement of the prior Engineer-in-Charge of Maintenance 2, there is no longer the impediment of having two individuals in this title. Additionally, notwithstanding the fact that the Engineer-in-Charge of Maintenance 2 and the Assistant Engineer-in-Charge of Maintenance 2 are both second level supervisory titles, the Assistant Engineer-in-Charge of Maintenance 2 job definition only permits incumbents to assist an Engineer-in-Charge of Maintenance 2. As such, notwithstanding the multiple levels of second level supervisory titles in this unit, in this unique situation only, reclassifying the appellant's position to Engineer-in-Charge of Maintenance 2 is consistent with the duties he performs at the complexity of the maintenance system as well as follows the appropriate level of progression within the title series. The appellant is performing the work of an Engineer-in-Charge of Maintenance 2.

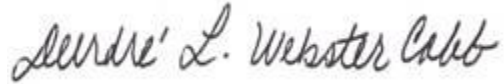
Accordingly, based on a thorough evaluation of all the information provided, the record establishes that the proper classification of the appellant's title is Engineer-in-Charge of Maintenance 2, effective September 1, 2021.

ORDER

Therefore, the position of the James Cook is properly classified as an Engineer-in-Charge of Maintenance 2, effective September 1, 2021. Further, the appellant should receive differential pay from September 1, 2021 forward.

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 19TH DAY OF JANUARY, 2022



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