

**COMMONWEALTH OF MASSACHUSETTS  
CIVIL SERVICE COMMISSION**

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

**VINOD BHANDARI,**  
*Appellant*

v.

**Case No.:** C-14-121

**EXECUTIVE OFFICE  
FOR ADMINISTRATION  
AND FINANCE,**  
*Respondent*

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. The parties had thirty (30) days to provide written objections to the Commission. No objections were received.

After careful review and consideration, the Commission voted to affirm and adopt the Tentative Decision of the Magistrate in whole, thus making this the Final Decision of the Commission.

The decision of the Human Resources Decision to deny Mr. Bhandari's request for a reclassification to the title of EDP Systems Analyst III is affirmed and Mr. Bhandari's appeal under Docket No. C-14-121 is *denied*.

By vote of the Civil Service Commission (Bowman, Chairman; Ittleman, McDowell and Stein, Commissioners) on January 8, 2015.

Civil Service Commission

/s/ Christopher C. Bowman  
Christopher C. Bowman  
Chairman

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 to:

Vinod Bhandari (Appellant)

Andrew Levrault, Esq. (for Respondent)

Richard C. Heidlage, Esq. (Chief Administrative Magistrate, DALA)

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

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Docket Nos: C-14-121  
CS-14-443

**VINOD BHANDARI,**  
Appellant

v.

**EXECUTIVE OFFICE OF ADMINISTRATION  
and FINANCE,**  
Respondent

**Appearance for Appellant:**

*Pro se*

**Appearance for Respondent:**

Andrew Levrault, Esq.  
Human Resources Division  
One Ashburton Place, Room 207  
Boston, MA 02108

**Administrative Magistrate:**

Angela McConney Scheepers, Esq.

**SUMMARY OF TENTATIVE DECISION**

The Appellant has failed to show by a preponderance of the evidence that he performed the duties of an EDP Systems Analyst III more than 50% of the time, thus he is properly classified as an EDP Systems Analyst II. I therefore recommend that the Civil Service Commission dismiss the appeal.

**TENTATIVE DECISION**

**INTRODUCTION**

Pursuant to the provisions of M.G.L. c. 30, § 49, the Appellant, Vinod Bhandari (Appellant), seeks review of the Human Resources Division's (HRD) May 21, 2014 denial of his request for reclassification from the position of Electronic Data Processing Analyst II (EDP Systems Analyst II or EDP SA III) to the position of Electronic Data Processing Analyst III

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(EDP Systems Analyst III or EDP SA III) in the Executive Office of Administration and Finance (ANF). A pre-hearing conference was held on July 1, 2014 at the offices of the Civil Service Commission (Commission), One Ashburton Place, Room 503, Boston, MA 02108. On September 5, 2014, pursuant to 801 CMR 1.01(11)(c), a Magistrate from the Division of Administrative Law Appeals (DALA) conducted a full hearing at the Division of Administrative Appeals (DALA) offices, One Congress Street, Boston, MA 02114, in accordance with the Formal Rules of the Standard Rules of Practice and Procedure. 801 CMR 1.01. Sandra Antonucci, Peter C. Kouroubacalis and Alexandra McInnis testified on behalf of the Respondent. The Appellant testified on his own behalf. The hearing was digitally recorded.

Fourteen (14) exhibits were admitted into evidence. I admitted the parties' Stipulated Facts as Exhibit 15. I admitted the Appellant's resume as Exhibit 16. The Respondent's Pre-hearing Memorandum was marked "A" for identification. The Appellant did not submit a post-hearing brief. The Respondent submitted its post-hearing brief on October 10, 2014, whereupon the administrative record closed.

### **FINDINGS OF FACT**

Based upon the testimony and documents presented at the hearing, I hereby render the following findings of fact:

1. The Appellant, Vinod Bhandari, began his employment as a state employee in the Department of Revenue (DOR) on September 13, 1987. The Department of Revenue is an agency within the secretariat of the Executive Office of Administration and Finance (ANF).<sup>1</sup> (Exhibit 15, Testimony of the Appellant.)

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<sup>1</sup> DALA is also a state agency within the secretariat of ANF.

2. In 1986, Mr. Bhandari graduated from Erie Community College, NY with an Associates' Degree in Business Administration and a Certificate in Small Business Administration. In 1999-2000, Mr. Bhandari attended Clark University and completed 328 hours of instruction in LAN Administration/Certified Network Engineer training. (Exhibit 15.)

3. Mr. Bhandari was permanently appointed to the position of Tax Examiner in the DOR on November 3, 1996. He was transferred to the DOR Information Security Office in 1997. (Exhibit 1; Testimony of the Appellant.)

4. Mr. Bhandari became an Electronic Data Processing Analyst II (EDP Systems Analyst II) in the Hardware Group in September 2000. At the time, there was a separate Software Group. In 2005, Mr. Bhandari joined the newly created Future Technologies Group. After one year, the Future Technologies Group merged with the Software Group. In 2011, the combined Future Technologies Group/Software Group became part of the Software and Helpdesk Group. In 2012, the Software and Helpdesk group was split into different groups, including the User Support Group where Mr. Bhandari worked at the time of his request for reclassification. The User Support Group was commonly known as the IT Help Desk. (Exhibits 1, 2 and 5; Testimony of the Appellant.)

5. EDP Systems Analyst II was Mr. Bhandari's official title, with the functional title of User Support Analyst. (Exhibits 1, 2 and 5; Testimony of the Appellant.)

6. Mr. Bhandari worked in the DOR User Support Group Chelsea location. Mr. Bhandari spent 80% of his work day working as a user call phone representative, answering live calls to the User Support help desk solely by DOR employees. The remaining 20% of Mr. Bhandari's time involved work on projects such as systems upgrades and installation. He

operated and repaired PCs, monitors, printers, scanner and other peripherals. Mr. Bhandari supervised no one. (Exhibits 1, 2, 3, 5 and 7; Testimony of the Appellant.)

7. Mr. Bhandari and the other eight employees of the User Support Group were supervised by Salvatore Fazio, User Support Manger, who assigned, reviewed, and approved all their work. While seven employees of the User Support Group, including Mr. Bhandari, were classified as EDP Systems Analyst II or EDP Programmer II, two employees were classified as EDP Systems Analyst III. Mr. Fazio reported to Peter C. Kouroubacalis, Jr., Director of User Support for the ANF Technical Services Bureau. (Exhibits 1, 2, 5 and 13; Testimony of the Appellant.)

8. In 2010, due to budgetary constraints and efficiency concerns, the Executive Branch centralized Infrastructure Services for all Executive Department agencies to the Information Technology Division (ITD) pursuant to Executive Order 510.<sup>2</sup> DOR assumed all the Information Technology (IT) responsibilities for ANF. In addition to his previous workload from DOR, providing Tier I support by answering live calls, Mr. Bhandari provided Tier II support to ANF upper management. Mr. Bhandari continued to help employees from more than 19 ANF agencies reset passwords, unlock accounts, install software and troubleshoot software issues. This increased his workload tremendously. Mr. Bhandari's official title, functional title and compensation remained the same. (Exhibit 7; Testimony of the Appellant.)

9. The Classification Specification for the Electronic Data Processing Analyst series as issued in May 1987, states that an EDP Systems Analyst I is the entry-level professional job in the series; the EDP Systems Analyst II position is the first-level supervisory job in the series; the

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<sup>2</sup> Executive Order 510 Enhancing the Efficiency and Effectiveness of the Executive Department's Information Technology Systems, February 19, 2009. Executive Order 510 was superseded by Executive Order 532 on May 9, 2011; Executive Order 532 was later superseded by Executive Order 549 on January 31, 2014.

EDP Systems Analyst III position is the second-level supervisory job in the series and the EDP Systems Analyst IV position is the third-level supervisory job in the series. (Exhibit 2.)

10. According to the Classification Specification for the Electronic Data Processing Analyst series, the following are examples of duties common to all levels in the series.

EXAMPLES OF DUTIES COMMON TO ALL LEVELS IN SERIES:

1. Analyzes requests for new or modified electronic data processing systems by reviewing written materials and consulting with users, technical personnel, vendors, etc., in order to assess user needs and to determine feasibility of converting manual systems into a form acceptable for electronic data processing; recommends acceptance or rejection of user requests.

2. Designs systems and/or programs to accommodate user needs and existing hardware capabilities by gathering data through observation, consultation and review of written material; by determining objectives of the system or programs and the steps needed to achieve those objectives; by preparing systems or program specifications; and by encoding programs using applicable computer language.

3. Composes systems or program documentation including flow charts, file layouts, input/output documents, programs narratives, etc.

4. Tests systems and/or programs by preparing test plans and data, conducting test runs, reviewing both input and output data for accuracy and validity, determining causes of programs/system failure and making necessary changes to ensure validity of the system or program prior to actual implementation.

5. Participates in activities required for the operation and maintenance of systems by recommending changes and corrections to provide for needs of users.

6. Implements approved systems and/or programs including run streams, file retention cycles, error recovery procedures, etc.; determines type and number of devices needed for production runs; determines appropriate response to error conditions; verifies data entry and reviews printouts for errors and completeness; and consults with users, technical personnel and vendors to identify and resolve problems or to notify of existing or potential problems.

7. Performs related duties such as operating remote terminals and other data entry equipment and attending seminars, training and professional meetings to keep up to date with development in the profession.

(Exhibit 2.)

11. According to the Classification Specification for the Electronic Data Processing Analyst series, the following are differences between levels in the series.

DIFFERENCES BETWEEN LEVELS IN SERIES:

EDP Systems Analyst II:

Incumbents of positions at this level and higher also:

1. Select tapes, card decks and disks according to schedules and requirements.
2. Make changes to systems or programs to improve performance.
3. Prepare reports to clarify or expand upon normal computer output.
4. Research statistical reference materials to determine most suitable method for analysis of data.

Incumbents of the position of EDP Systems Analyst II analyze procedures and problems to refine data and convert it to programmable form for electronic data processing; confer with users to ascertain specific output requirements, such as breakouts, degree of data summarization, and format for management reports; and perform related work as required.

EDP Systems Analyst III:

Incumbents of positions at this level and higher also:

1. Schedule stages of software systems development including such things as structured walk-throughs, program team assignments and others.
2. Train agency personnel or students on-the-job.
3. Determine flow of data in relation to data sets, input/output devices, spool allocations and time requirements.
4. Determine output of computer time, core size, and number devices required to process production requests.
5. Evaluate computer programs to ensure compliance with standards.
6. Estimate the time, equipment and staff requirements for current or proposed systems or projects.
7. Research statistical reference materials to determine most suitable method for analysis of data.
8. Apply statistical methods to raw data and interpret results.
9. Confer with staff to determine sources, status of runs, allocation of hardware resources, etc.

(Exhibit 2.)

12. According to the Classification Specification for the Electronic Data Processing Analyst series, the following is supervision received by levels in the series.

SUPERVISION RECEIVED:

EDP Systems Analyst I:

Incumbents of positions at this level receive general supervision from EDP Systems Analysts or other employees of higher grade who *provide trainings as required and guidance on procedures*, assign work and review performance through conferences and reports for effectiveness and compliance with standards

and procedures.

EDP Systems Analyst II:

Incumbents of positions at this level receive general supervision from EDP Systems Analysts or other employees of higher grade who provide *guidance on procedures*, assign work and review performance through conferences and reports for effectiveness and compliance with standards and procedures.

EDP Systems Analyst III:

Incumbents of positions at this level receive general supervision from EDP Systems Analysts or other employees of higher grade who provide *guidance on policy*, assign work and review performance through conferences and reports for effectiveness and compliance with standards and procedures.

(Exhibit 2.)

13. According to the Classification Specification for the Electronic Data Processing Analyst series, the following is supervision exercised by levels in the series.

SUPERVISION EXERCISED:

EDP Systems Analyst I:

None.

EDP Systems Analyst II:

Incumbents of positions at this level exercise direct supervision (i.e. not through an intermediate level supervisor) over, assign work to and review the performance of 1-5 programmers, system analysts or other data processing personnel.

EDP Systems Analyst III:

Incumbents of positions at this level exercise direct supervision (i.e. not through an intermediate level supervisor) over, assign work to and review the performance of 1-10 programmers, system analysts or other professional, technical or administrative personnel; and indirect supervision (i.e. through an intermediate supervisor) over 1-10 programmers, system analysts or other professional, technical or administrative personnel.

(Exhibit 2.)

14. According to the Classification Specification for the Electronic Data Processing Analyst series, the following details additional qualifications required at hire for positions in the series.

Additional qualifications required at hire for EDP Systems Analyst II positions:

1. Ability to prepare technical reports.
2. Ability to supervise, including planning and assigning work according to the nature of the job to be accomplished, the capabilities of subordinates and available resources; controlling work through periodic reviews and/or evaluations; determining subordinates' training needs and providing or arranging for such training; motivating subordinates to work effectively; determining the need for disciplinary action and either recommending or initiating disciplinary action.

Additional qualifications required at hire for EDP Systems Analyst III positions:

1. Knowledge of the methods and techniques of statistics.
2. Knowledge of the principles, practices and techniques of supervision.

(Exhibit 2.)

15. On April 1, 2013, when Mr. Bhandari appealed for reclassification to the position of EDP Systems Analyst III, the matter was assigned to Susan Antonucci, Classification Supervisor of the DOR Human Resources Bureau (HRB). Ms. Antonucci has worked for the last thirteen years as a classification analyst for DOR. (Exhibit 7.)

16. Ms. Antonucci asked Mr. Bhandari to submit his most recent Form 30 and EPRS. (Exhibits 3 and 4; Testimony of Antonucci.)

17. According to Mr. Bhandari's Form 30 for the EDP Systems Analyst II position, signed by both the Appellant and Mr. Fazio, on November 14, 2012, his general duties and responsibilities included providing tier I and tier II User Support to ANF IT supported computer users by analyzing, troubleshooting, providing technical assistance to users, referring problems relating to Software, Mobile, Hardware, Accounts or other ANF IT support services and other duties as required. (Exhibit 3.)

18. According to Mr. Bhandari's Form 30, his more detailed duties and responsibilities included:

1. Providing computer support to ANF IT supported users by analyzing, troubleshooting system problems or referring calls to other ANF IT

- Support Groups;
2. Accurately and timely logging all user inquiries by recording the required information in call tracking system (SDE) in order to track activities and results and ensuring quality service;
  3. Providing high quality customer service to ANF IT supported agency computer uses; Exchanging information with peers and supervisors using both verbal and written forms of communication;
  4. Assuming additional duties and responsibilities as required by management in order to assist the completion of special and/or ongoing projects with ANF IT support;
  5. Adhering to Agency/Division/Bureau administrative policies;
  6. Understanding and abiding by all ANF policies and procedures as related to computer use and access.

(Exhibit 3.)

19. According to the Form 30, Mr. Bhandari met with Mr. Fazio, his supervisor, on a weekly basis in order to review ongoing projects and assignments. (Exhibit 3.)

20. On the 2013 Employee Performance Review Form (EPRS), Mr. Kouroubacalis awarded Mr. Bhandari an "Exceeds" evaluation for his Progress Review, and commented:

Vinod is a top performer in User Support. He has strong technical and communication abilities in handling the heavy call volume; his service is always accurate and timely delivered. His contributions to the overall performance of User Support have been outstanding.

21. Mr. Kouroubacalis evaluated Mr. Bhandari for the following seven duties:

Duty 1: Provides computer support to ANF IT Supported users by analyzing, troubleshooting system problems or referring calls to other ANF IT Support Groups.

ACTUAL PERFORMANCE: Exceeds

COMMENTS: Vinod provides outstanding support to ANF users. He responds accurately and effectively to users' problems. He escalates problems immediately to the supervisor if he is unsure of the proper resolution.

Duty 2: Accurately and timely logs all user inquiries by recording the required information in call tracking (SDE) in order to track activities and results and ensure quality service

ACTUAL PERFORMANCE: Meets

Duty 3: Provide high quality customer service to ANF IT Supported agencies computer users

ACTUAL PERFORMANCE: Exceeds

COMMENTS: Vinod exceeds all the performance criteria for this duty. Vinod provides high quality customer service to ANF users, peers and supervisors.

Duty 4: Exchange information with peers and supervisors using both verbal and written forms of communication

ACTUAL PERFORMANCE: Exceeds

COMMENTS: Vinod cooperates with his peers, supervisor and managers in a professional manner which contributes to the success of User Support.

Duty 5: Assume additional duties and responsibilities as required by management in order to assist the completion of special and/or ongoing projects within ANF IT Support

ACTUAL PERFORMANCE: Exceeds

COMMENTS: Vinod assumes additional duties, responsibilities and offers suggestions and expertise on projects.

Duty 6: Adhere to Agency/Division/Bureau administrative policies

ACTUAL PERFORMANCE: Meets

Duty 7: Understand and abide by all ANF Policies and Procedures as related to computer use, access and support

ACTUAL PERFORMANCE: Meets

22. Ms. Antonucci also asked Mr. Bhandari to submit an Interview Guide, which he submitted on May 29, 2013. For the basis of his reclassification appeal, Mr. Bhandari stated, "The volume of my work is equal to that of a Systems Analyst III. I possess leadership qualities and I make sure to take the initiative." Mr. Fazio reviewed the Interview Guide for accuracy. (Exhibit 5.)

23. Ms. Antonucci recorded her notes from interview with Mr. Bhandari on the Questionnaire for EDP Systems Analyst Series (Questionnaire). The interview further revealed that Mr. Bhandari did not supervise staff nor lead project teams. In his submission to the questionnaire, Mr. Fazio stated that Mr. Bhandari was the highest producer in his group, performing at a higher level than his co-workers. Mr. Bhandari, in his work as a user call representative, dealt with irate callers on a regular basis. He worked on software in addition to

troubleshooting issues with hardware. Mr. Bhandari was the “go to person” in regard to all software issues, and trained others in his group on hardware issues. (Exhibit 7.)

24. Mr. Fazio wrote that because Mr. Bhandari functioned as the “go to person” in his group, his work load increased dramatically when DOR was merged with ANF. (Exhibit 7; Finding of Fact 8, supra.).

25. In regard to the responsibilities for an EDP Systems Analyst III, Mr. Fazio opined that an incumbent in that position *must lead project teams*, develop and write programs. The position is a visionary one, the incumbent is involved in development and enhancement of systems, improving utilization and performance, acting in a leadership role more than 50% of the time, performing tasks to advance IT systems and/or acting in a leadership role on project. (Exhibit 7.)

26. However, in regard to Mr. Bhandari’s request for reclassification, Mr. Fazio elaborated that Vinod did not supervise staff, he did not lead project teams and spent most of his time working independently. Sometimes Mr. Bhandari served as back-up when his boss was out. (Exhibit 7.)

27. Ms. Antonucci made the preliminary decision to deny Mr. Bhandari’s reclassification. In the Classification Appeal Preliminary Decision, signed by both Ms. Antonucci and Mr. Fazio on August 6, 2013, they listed as justification therefor that Mr. Bhandari did not perform on a regular basis the level- distinguishing duties (as noted on the Classification Specification) in order to be reclassified:

- Schedule stages of software systems development including such things as structured walk-throughs, program team assignments and others.
- Train agency personnel or students on-the-job.
- Determine flow of data in relation to data sets, input/output devices, spool allocations and time requirements.
- Determine output of computer time, core size, and number devices

- required to process production requests.
- Evaluate computer programs to ensure compliance with standards.
- Estimate the time, equipment and staff requirements for current or proposed systems or projects.
- Research statistical reference materials to determine most suitable method for analysis of data.
- Apply statistical methods to raw data and interpret results.
- Confer with staff to determine sources, status of runs, allocation of hardware resources, etc.
- Leads project teams at least 51% of the time.
- Must develop and write programs.
- Must develop and enhance systems, improving utilization and performance and acts in a leadership role more than 50% of the time.
- Must be performing the role of advancing IT systems while leading teams on projects.
- Direct supervision over one to ten programmers, system analysts, or other professional, technical, or administrative staff.
- Must be a member of a technical team with responsibility for working independently on advanced, complex assignments.

This denial was communicated to Mr. Bhandari in an August 6, 2013 letter from Susan E.

Montgomery-Gadbois, the Director of the DOR HRB. He was given ten days to rebut the denial.

(Exhibit 8; *see supra* Findings of Fact 12, 13 and 14.)

28. On August 15, 2013, Mr. Bhandari sent Ms. Montgomery-Gadbois, Ms. Antonucci and Mr. Kouroubaclis a rebuttal via email. In the email coverletter, Mr. Bhandari stated that he and Mr. Kouroubaclis went through the denial together, and found many items which do not apply to the Questionnaire for EDP Systems Analyst Series positions, and found out-dated duties listed which are no longer performed by anyone in the User Services Group. Mr. Bhandari also reminded Ms. Montgomery-Gadbois that he had been manager of the Boston office, and was in charge of the move when his department moved from Sleeper Street to Cambridge Street. (Exhibit 9; Testimony of Appellant.)

29. Ms. Antonucci, in consultation with others, reviewed Mr. Bhandari's rebuttal. She found no support for his reclassification. Mr. Bhandari received a denial of his appeal, dated

February 3, 2014, signed by Marcia Desmond, ANF Secretariat Chief Information Officer.

(Exhibit 10.)

30. Mr. Bhandari appealed ANF's determination to the state's Human Resources Division (HRD) on February 14, 2014. In his appeal, he stated that he was performing the same duties or greater duties than the two EDP Systems Analyst III in the User Support Group.

(Exhibits 11 and 13; Testimony of the Appellant.)

31. The EDP Systems Analysts III had been supervisors in other DOR units before their absorption into the User Support Group. When they were integrated into the User Support Group, although they lost their supervisory responsibilities, they were not demoted and did not lose compensation. Mr. Bhandari was not a supervisor in his previous DOR positions.

(Testimony of Kouroubacalis.)

32. In the event that one of the incumbents of the User Support Group EDP Systems Analyst III positions left, the vacancy will be posted with the appropriate classification.

(Testimony of Antonucci, Testimony of McInnis.)

33. Alexandra McInnis, HRD Personnel Analyst III, reviewed Mr. Bhandari's appeal, EDP Systems Analyst Classification Specifications, EPRS, Form 30, Interview Guide and Questionnaire, the ANF findings and the rebuttal, including Mr. Bhandari's remarks about the EDP Systems Analyst III working in his group. (Testimony of McInnis.)

34. Ms. McInnis affirmed the DOR decision. HRD denied the Appellant's appeal on May 2, 2014, finding that his duties were properly classified as an Electronic Data Processing Analyst II. (Exhibit 12 and 15; Testimony of the Appellant.)

35. The Appellant appealed HRD's denial to the Commission on December 9, 2009. (Exhibits 8 and 15; Testimony of the Appellant.)

### CONCLUSION AND ORDER

G.L. c. 30, § 49 provides:

Any manager or employee of the commonwealth objecting to any provision of the classification affecting his office or position may appeal in writing to the personnel administrator and shall be entitled to a hearing upon such appeal. . . . 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 determining factor of a reclassification is the distribution of time that an individual spends performing the function of a job classification.” *Roscoe v. Department of Environmental Protection*, 15 MCSR 47 (2002). In order to justify a reclassification, an employee must establish that he is performing duties encompassed within the higher level position the majority of the time. *See, e.g., Pellegrino v. Department of State Police*, 18 MCSR 261 (2005); *Morawski v. Department of Revenue*, 14 MCSR 188 (2001); *Madison v. Department of Public Health*, 12 MCSR 49 (1999); *Kennedy v. Holyoke Community College*, 11 MCSR 302 (1998).

Mr. Bhandari has argued that he should be properly classified as an EDP Systems Analyst III because his position does not differ from those of the two EDP Systems Analysts III who perform same or similar in the User Support Group; his work load has increased in degree and complexity since the consolidation of IT groups within the Executive Branch; he performed Tier II duties and assumed responsibilities outside the Classification Specifications for EDP Systems Analyst II.

I find that Mr. Bhandari has not met his burden for reclassification within the EDP SA series.

The basic issue is whether, in his current position, Mr. Bhandari is performing the duties of an EDP SA III as that position is currently specified in the EDP Series Classification

Specification. Ms. McInnis testified, and I agree, that a comparison with the two employees within the User Support Group who hold the title of EDP SA III cannot alone establish the basis for reclassification, if it is not otherwise warranted. Mr. Kouroucabalidis testified that there indeed EDP SA III within the User Support Group. However, that status was accorded strictly based on their previous supervisory positions during previous IT incarnations. Ms. McInnis further testified that any vacancy resulting from their departure would be posted at the appropriate classification. *See Poland v. Department of Revenue*, 21 MCSR 381 (2008).

Similarly, an increase in the complexity or volume of the work does not warrant reclassification to a higher title. As a result of Executive Order 510 (2009), Executive Order 532 (2011) and Executive Order 549 (2014), all DOR's IT department and all other IT departments in the Executive Branch were merged. As a result of the consolidation, some of Mr. Bhandari's duties were increased. His customer base expanded from the DOR to all agencies within ANF. However, HRD may reclassify a position only when the job an appellant currently performs matches the Classification Specification for such a higher title. *See Poland*.

It is undisputed that Mr. Bhandari's job is primarily that of a call center employee. As required for the EDP SA III position, he does not lead project teams, or develop or write programs. He does not supervise anyone, although on occasion he has acted in a leadership role. However, he did not perform in this leadership role more than 50% of the time. It is more likely than not that he pitched in as needed.

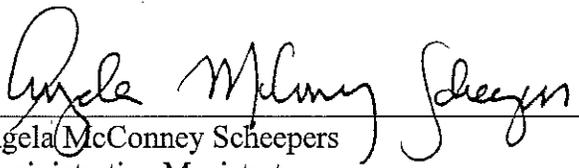
Mr. Bhandari is by all accounts an excellent employee. His 2013 EPRS is impressive and full of accolades. Unfortunately, an increase of the volume of work does not equal a change of duties under the civil service scheme. HRD was correct in denying his request.

In this case, lack of supervisory duties and project management responsibility show that

Mr. Bhandari did not perform the level-distinguishing duties of an EDP SA III more than 50% of the time. Although he is a laudatory employee, a preponderance of the evidence established that Mr. Bhandari's job remained closer to the duties of an EDP SA II. *Compare Harand v. Soldiers' Home in Holyoke*, 21 MCSR 194 (2008). Accordingly, I recommend that the appeal be *dismissed*.

SO ORDERED.

DIVISION OF ADMINISTRATIVE LAW APPEALS

  
\_\_\_\_\_  
Angela McConney Scheepers  
Administrative Magistrate

DATED: **NOV - 5 2014**