



DEPARTMENT OF STATE

Foreign Service Grievance Board

July 7, 1975

MEMORANDUM

TO : Director of Personnel and Manpower - AID

SUBJECT: Record of Proceedings - (74-255-AID-96J)
Remedial Order in the Case of [REDACTED] [REDACTED]

[REDACTED] December 10, 1974, [REDACTED] filed with the Board a grievance against the Agency for International Development (AID), which, however, had not been processed through the informal procedures of AID, as required by the regulations. The Board therefore forwarded her grievance to AID for its review. The Director of Personnel and Manpower informed [REDACTED] by letter dated January 6, 1975, that he had completed his informal review and had returned the grievance to the Board. Since he had not responded favorably, she requested the Board in a letter dated January 29, 1975, to proceed with its consideration of her case.

The Board accepted jurisdiction on February 3, 1975, and ordered an appropriate investigation. This included a review of the Record of Proceedings in this case, of the grievant's official personnel record, pertinent laws and regulations, and interviews with the grievant and other persons knowledgeable about the circumstances of the case.

Grievance

The grievant contends that the title, position description, and Agency Occupational Specialty Code (AOSC) of her position in Ghana were inaccurate and erroneous, because they identified her as a midwife when in fact she is not a midwife and could not validly hold such a title and AOSC. The title assigned by AID was Regional Public Health Nurse Advisor (Midwife) with AOSC 0615.20.

Relief Requested

The relief she requested was to have the position she occupied in [REDACTED] reclassified to reflect the actual duties she performed.

wliich, according to her statement,, were those of a Public Health Nurse Advisor, with the AOSC corresponding to that title (0615.01).

Background

The grievant attended the Mercy Hospital School of Nursing in Auburn, New York, received her nursing diploma, arid, was licensed by the State of New York in 1939. In 1958 she was awarded the B.S. degree, and in 1961 the M.A- degree in Public Health and Public Health Supervision by Teacher's College, Columbia University.

Her nursing background has included work in hospitals, service with the United States Wavy Nurse Corps, and considerable experience in the Public Health field. For approximately seven years she was a Public Health Nurse for the Mew York City Department of Health, and in the years just prior to her employment with AID she was Supervisor of Public Health Nurses for the Department of Health in Mount Vernon, New York.

She entered on duty with AID in 1968 as an FSSL-5, and was assigned to [REDACTED] where she served as a Public Health Staff Nurse. In July 1970, she was promoted to FSRL-4, and in November 1970, her limited appointment was converted to an FSR appointment in the Excepted Service of AID.

She returned to Washington from [REDACTED] in early 1972, and in September 1972 was sent to [REDACTED] where she served with the Regional Population Office (RPO) until June 1974.

Upon her return to Washington [REDACTED] in June 1974, she was assigned to the complement. In accordance with AID regulations (Manual Order 476.2, issued June 12, 1974), the title and AOSC held by her in Ghana, her last permanent position, determined the retention register on which she was placed for RIF purposes. The grievant was, in fact, RIF'd effective December 30, 1974, as a result of being reached on her retention register.

Agency's Position

The agency's position is that while she admittedly is not a licensed midwife, nevertheless she did carry out the duties of a position designated as Public Health Nurse Advisor (Midwife), and that therefore it sees no basis for reclassifying that position in response to her grievance alleging an error in connection with her [REDACTED] position classification.

In this connection it is noted that in a letter to the grievant dated December 10, 1974,. from [REDACTED], Acting Assistant Administrator in the Bureau of Program and Management Services, in which he denied her appeal in connection with her reduction-in-force notice, he made the following statement about the establishment

of the position:

The official personnel record shows that you were nominated to ██████ in April 1972 to fill a position with the specific title of Public Health Nurse Advisor Midwife. It appears that the title and classification of the position, which you now question, was established in December 1971 after review by Agency officials in Washington and ██████. It is noted that the modified description of the job and grade justification was added to the SPAR after an exchange of cables proposing substitute language in certain paragraphs^{anc*} modified qualification requirements. It is also noted that it was never proposed to delete the midwifery elements of the position nor to change the title from Public Health Kur:" - Advisor Midwife.

Discussion

One of the most important programs supported by AID in-██████ concerns population problems and related health matters. In 1972 a special bureau-The Bureau of Population and Humanitarian Assistance (PHA)-was set up in AID to deal with these problems. Prior to that time, programs of this nature were supervised by the Bureau ██████.

While -a few of the programs are designed for individual countries, most of them are regional, with one ██████ headquarters post serving several countries. Programs had been conducted for several years with non-medical personnel, but it was determined by the ██████ Bureau in 1971 that it would be desirable to have physicians on the population teams at the ██████ regional centers. Where physicians were not available, nurses were assigned. It was decided that for ██████ it would be desirable to have a nurse/midwife on that regional population team. According to information given to the Board, that decision stemmed at least partially from the fact that since much of the work was done with mxdwives throughout the region, it would be useful to have the nurse team member able to introduce herself as one of them.

In December 1971 this desired position was established by a SPAR (Staffing Position Action Request) which designated the title of the position as Public Health Nurse Advisor, Midwife, and the Agency Occupational Specialty Code (AOSC) as 0615.20.

When AID attempted to fill the position, however, it ran into difficulties. The post was offered to a public health nurse then

serving in [REDACTED], who was also a qualified midwife. She did not accept, and the Agency then began to look elsewhere but without success. At last, when the Agency found that no public health nurse who was also a qualified midwife was available, it proposed [REDACTED], a public health nurse but not a midwife, for the [REDACTED] position. Because she was not a midwife, AID/Washington proposed that [REDACTED] be given some exposure to midwifery training programs, including three weeks of observation at the Downstate Medical Center in New York. This proposal did not work out, however, since the Downstate Center admitted only midwives to its programs. In the end, [REDACTED] spent a few days in the New Orleans area where she observed a program that included some midwifery elements, and had lunch in [REDACTED] with a representative of the International Confederation of Midwives.

It should be noted at this point that even had she been allowed to observe the Downstate program, [REDACTED] would not have qualified her for the appellation "midwife". By American nursing standards only a person who has received special training—in the grievant's state of New York it is two years—and who has received formal certification by an appropriate licensing authority may properly be called by that title.

The Board was informed that at the time it became known that a nurse/midwife was not available for the [REDACTED] position, and that [REDACTED] would be assigned instead, there was discussion among those who helped set up the program about the necessity for rewriting the position description to conform to the changed conditions. The record in this case contains a statement by the Personnel Staffing Specialist who was the backstop officer for world-wide Health, and Population personnel at the time of this assignment. She stated in pertinent part as follows:

I participated in discussions regarding her qualifications for the position since she was not a Mid-wife. I certify that, after numerous discussions, it was decided both in AID/W and in [REDACTED] the services of a Nurse Mid-wife were not required to carry out the duties of the position. Since [REDACTED] was a qualified Public Health Nurse, she was selected for the position and transferred to [REDACTED]. Unfortunately, the position description was never revised to change the title to Public Health Nurse Advisor and to delete all reference to a requirement for a Mid-wife.

It is not clear why the Agency failed to take this action.

Other officials of AID who were closely associated with the program both in Washington and in [REDACTED] have submitted statements for the record, making it clear that [REDACTED] is not and was not a midwife.

and never performed duties associated with such a title. The present Deputy Director of the Office of Population in the PHA Bureau (PHA/POP) noted the facts to be as follows:

██████████ is a qualified Public Health Nurse but is not qualified as a midwife. PHA/POP believes that we need midwives working in population programs. In spite of our best efforts we have been unable to recruit a single midwife in our program. therefore ██████████, a Public Health Nurse, but not a midwife, was assigned to the Regional Office as the best available person. If she was carried on the Personnel roles as a midwife, this was an error as she does not qualify as such.

The present Director of the Office of Development Services in the " Bureau ██████████ was the Director of the office in ██████████ bureau which had responsibility for health and population programs in ██████████ during the time that ██████████ was assigned to ██████████. In a statement addressed to ██████████ dated December 3, 1974, he summed up the situation as follows:

1. The original request from the Regional Population Office (RPO), was for a Public Health Nurse Advisor (Midwife).
2. The only Public Health Nurse Advisor (Midwife) was detailed from ██████████ to ██████████ TOY to Investigate the possibility of assignment to the position. However, her decision was to remain in ██████████
3. Since no other Public Health Nurse Advisor (Midwife) was available, ██████████ was nominated as a Public Health Nurse Advisor to fill the position and she was accepted as such by the RPO.
4. At no time was ██████████ thought by anyone to be a Midwife.
5. Since the functions of the RPO were to help introduce and help establish Family Planning Programs in the LDCs, it was determined that an experienced, qualified Public Health Nurse Advisor could fill the position satisfactorily ██████████ was therefore chosen.

In his statement he characterizes the classification of ██████████ as a Public Health Nurse Advisor (Midwife) as "erroneous". According to him, her correct classification should be Public Health Nurse Advisor.

In a separate statement dated December 13, 1974, also addressed to ██████████, this same official noted as follows:

■ It was the consensus of the [REDACTED]/TAC Office that this position did not require the services of a technically qualified midwife; that the implementation of Family Planning programs could more successfully be carried out by a well qualified and experienced Public Health Nurse. We therefore asked [REDACTED] [REDACTED] to take the position, when she accepted the position she was sent to [REDACTED] solely as a Public Health Nurse; this was made known to and concurred in by the Regional Population Office Director in the Field.

The Chief of the Development Support Staff of the Office of Development Services in the Africa Bureau also submitted a statement to [REDACTED] noting that he had been the Program Officer for Technical Assistance Coordination in that Bureau ([REDACTED]/TAC) and Project Manager for all Health and Population Programs in 1972, and as such Backstop Officer for the Regional Population Office in [REDACTED], at the time of [REDACTED] assignment. He stated further:

Since it was the opinion of the [REDACTED]/TAC Office that the job of identifying and help in implementing Family Planning Projects in LDCs in [REDACTED] could efficiently be done by a qualified and experienced Public Health Nurse, [REDACTED] was requested to accept the position. This position was made known to the RPS; and on their concurrence, [REDACTED] was posted.

It is apparent that while the statement of [REDACTED] that "it was never proposed to delete the midwifery elements of the position nor to change the title from Public Health Nurse Advisor Midwife," may be technically correct, it does not reflect the understanding of other AID officials closely associated with the [REDACTED] program at the time. The proposal to delete the midwifery elements may not have been made, but clearly it should have been.

The record also shows that the exchange of cables and subsequent modifications in the SPAR mentioned by [REDACTED] [REDACTED] took place in November 1971. They thus had nothing to do with [REDACTED] [REDACTED] qualifications or lack of them, "since, as [REDACTED] noted, she was first considered for the position in April 1972.

The SPAR

The Board has carefully examined the SPAR which contains the official description of the position. As finally established in December 1971, the SPAR states in paragraph 1 that the Public

Health- Nurse Advisor (Midwife) "will provide professional advice...on the development, organization, and strengthening of maternal and child health and midwifery services."

Under Nature and Scope of Work,, the SPAR states:

Functions of this position include advising on the development and improvement of prenatal and postnatal services, newborn infant care, midwifery, including training of indigenous midwives, informational services, and family planning services.

Under Grade Justification appears the following statement:

Good training in nursing and midwifery will be most essential....

These qualifications were among those thought essential to the position when it was set up in the abstract, without reference to any specific person. As noted already, however, in actuality it turned out to be impossible to fill the position as described in the SPAR, The first, and only, incumbent of the position (which has since been abolished) was [REDACTED], and it was clearly understood by both Washington and the post, as indicated in the above quoted statements, that she did not have the qualifications or perform the duties outlined in the SPAK.

The ^Efficiency Reports

The Board has also carefully examined the efficiency reports prepared on the gxievant while she was in [REDACTED] to determine the merit of the Agency's argument that she did carry out the duties of the position designated as a midwife position and that she should therefore bear the title and the AOSC of the position for RIF purposes.

There are three reports. The first one, covering the first four months of her assignment, lists in descending order of importance seven major duties. The fourth of these is that the incumbent "advises RPO on selection of candidates for participant training in midwifery services in non-emphasis [REDACTED] countries." This is the only mention of duties relating to midwifery. In the narrative portion of that report, under the heading "Performance Summary" it is stated:

Rated Officer has visited three [REDACTED] countries since arriving in [REDACTED]. She also participated in a seminar for [REDACTED] health personnel as an observer and was able to make effective professional contributions on how best to incorporate family planning into maternal and child health training programs designed for [REDACTED] midwives."

In the second report, covering a nine-month period (prepared upon the departure of the rating officer), a different form is used, which provides for a list of "assignments." The only reference to "midwifery" in this list is a repeat of the sentence from the first report quoted above, that she "advises on selection of midwifery training participants in non-emphasis [REDACTED] countries."

In the third report, her rating was done by the officer who had been the reviewing officer of her previous two-reports. Under the heading, "Assignments,"-the first three are listed as follows:

Advise on development of nursing/midwifery elements of FP programs; establishment & supervision of FP services; train FP workers; select participant trying candidates.

Survey/evaluate proposed projects and be responsible for substantive nursing/midwifery aspects of project development/programming in RPO.

Advisory services to RPO, local and area AID offices, embassies and host country officials en development of nursing/midwifery aspects of MCH/FP services.

The language of the third report differs, in the description of the grievant's "assignments" from that of the previous two reports, prepared by a different rating officer, but the record does not show that the duties she performed, changed during her tenure (the Position Number and the Position Classification Number remained the same throughout).

The Board notes that the cited duties of the third report do not appear to correspond to the functions outlined in the SPAR, such as "development and improvement of prenatal and postnatal services, newborn infant care, midwifery, including training of indigenous midwives", etc. Rather than being duties relating to midwifery services such as were envisioned in the SPAR, they are described as "elements" or "aspects" of family planning (FP) or maternal and child health (MCH) projects and services, which would be appropriate duties for a Public Health Nurse without a midwifery specialty. In this connection, the record shows that during her service in [REDACTED] as a Public Health Staff Nurse, among other activities she "promoted and helped conduct training programs for midwives, food handlers and others." (Report for period 11/11/68 -12/31/69). ,

Findings

The Board finds that [REDACTED] is not a qualified midwife and could not properly be designated by a title and AOSC relating to

that specialty. She did not have the qualifications listed in the SPAR as essential (e.g. "good training in...midwifery will be most essential..."), nor did she carry out the functions described in the SPAR, such as "development and improvement of prenatal and postnatal services, newborn infant care, midwifery, including training of indigenous midwives"/ etc.

The Board further finds that these facts were well understood by officials, both in Washington and in ██████, in charge of the programs with which ██████ was associated; that they understood her to be a Public Health Nurse Advisor, not a Public Health Nurse Advisor (Midwife) .

Conclusions

The Board concludes that when it became apparent that no nurse/ midwife was available to fill the ██████ position designated for a midwife, and when the Agency in fact assigned a nurse who was not a midwife to the position, it should at that time have reclassified the position to reflect the actual-duties of the position and to identify it with an appropriate title and AOSC.

The Board further concludes that it was an error for AID to assign ██████ the title of Public Health Nurse Advisor (Midwife) and the AOSC, 0615.20, corresponding to that title, and that this error resulted in the grievant's name being placed on an* incorrect retention register. Since her AOSC was incorrect and the retention register was consequently inappropriate, the Board concludes that her separation from the service as a result of being reached on that retention register was wrongful.

ORDER The

Board therefore orders as follows:

that AID rescind all personnel actions taken by it as a consequence of its incorrect classification of the grievant's position in ██████;

that AID correct the classification of the position occupied by ██████ in ██████ to reflect the fact that the duties she performed were those of a Public Health Nurse Advisor rather than those of a Public Health Nurse Advisor (Midwife);

that AID assign the correct AOSC to ██████ to accord with the corrected position classification.

SUMMARY

The grievant contends that the title, position description, and Agency Occupational Specialty Code (AOSC) of the position to which she was assigned in [REDACTED] were inaccurate and erroneous, because they identified her as a midwife, when in fact she is not a midwife and could not validly hold such-a title and AOSC. She requested that the position be reclassified to reflect her actual duties, which were those of a Public Health Nurse Advisor, with the AOSC corresponding to that title.

The Agency maintains that she performed the duties of the position, as outlined in "the SPAR, which was classified as a Public Health Nurse Advisor (Midwife), and that therefore it sees no reason to change the classification.

The Board found that whereas it was the desire of the post to have a qualified midwife fill the position, no such candidate was available, and that with the knowledge and concurrence of the post the position was filled by the grievant, a qualified Public Health Nurse, but not a midwife, and that officials both in Washington and in [REDACTED] were well aware that she did not and could not perform the functions originally outlined in the SPAR.

The Board concluded that the Agency should-have reclassified the position at the time it assigned the grievant to [REDACTED], and that its failure to do so resulted in her bearing an inaccurate title and AOSC for RIF purposes.

The Board further concluded that because she was on an inappropriate retention register, by reason of an incorrect AOSC number, her separation from the service as a result of being reached on that retention register for RIF purposes was- wrongful.

The Board ordered the Agency to rescind all personnel actions taken as a consequence of its incorrect classification of the grievant's position, and to correct the classification of the position occupied by the grievant to reflect her position as a Public Health Nurse Advisor instead of a Public Health Nurse Advisor (Midwife), and to assign her a correct AOSC to correspond with the corrected position classification.

Certification of compliance with this order should be furnished to the Board within thirty days.

[REDACTED]
William E. Simkin
Chairman

[REDACTED] Foreign Service Grievance Board CC:
[REDACTED]