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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

IN REPLY REFER TO: B-195127 (MRV)

OFFICE OF GENERAL COUNSEL

December 7, 1979

Ms. Gwendolyn C. Washington
Ms. Carrie S. Robinson
Dietetic Service
VA Medical Center
Dallas, Texas 75216

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Dear Ms. Washington and Robinson:

This is in response to your letter which we received June 7, 1979, concerning your job descriptions and your claim for backpay.

In view of the statutes relating to our decision-making authority, we are unable to render a formal decision to you at this time. See 31 U.S.C. §§ 74, 82d. However, on the basis of the information provided by you, we offer the following comments on your situation. If, after studying this information, you believe you are entitled to backpay, you may submit a claim through your agency to our Claims Division in accordance with the provisions of 31 U.S.C. § 71 and 4 C.F.R. Part 31.

Your letter indicates that both of you are employed by the Veterans Administration (VA) as Metabolic Cooks, WG-4, and you contend that your jobs should be classified as WG-5 positions. You, therefore, claim retroactive pay for a period of 7-1/2 years on the basis of our decision in B-183086 concerning extended details to higher grade positions.

With regard to the classification of your position, we note that under 5 U.S.C. § 5346 (1976) prevailing rate positions are graded under standards established by the Office of Personnel Management (OPM). Employee appeals of such job grading determinations are reviewed by the employing agency and OPM. See Federal Personnel Manual Supp. 532-1, S7 (copy enclosed). It is not within the jurisdiction of our Office to review job grading determinations, and, as pointed out in the VA letter to you dated May 8, 1979, you may file your classification appeal with the VA Central Office or OPM.

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With regard to your entitlement to backpay for the period of wrongful classification, our Office and the courts have long held there is no entitlement to the pay of a higher grade position unless and until the position is reclassified upward and the employee is promoted to that position. See Joe F. McLeod, B-191642, November 17, 1978; and Armand J. Richard, B-192514, October 16, 1978 (copies enclosed).

Our Office has held that employees who are on extended details to a higher graded position without Civil Service Commission approval to extend the detail beyond 120 days are entitled to a retroactive temporary promotion and backpay beginning the 121st day of such detail. Turner-Caldwell (B-183086), 55 Comp. Gen. 539 (1975), affirmed at 56 id. 427 (1977). However, as we stated in McLeod, supra, a detail is the temporary assignment of an employee to a different position within the same agency. Where an employee has not been detailed to a higher grade position but instead argues that his existing position should have been classified at the higher grade, our Turner-Caldwell decisions are not applicable. See Joseph B. Halldorson, B-189205, October 3, 1977 (copy enclosed).

We trust that this information is of assistance to you.

Sincerely yours,



Michael R. Volpe
Attorney-Adviser

Enclosures