

DOCUMENT RESUME

02584 - [A1792818]

[Detail to Higher Grade]. B-187249. June 17, 1977. 3 pp.

Decision re: Charles E. Wassner; by Milton Socolar, Acting Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Maritime Administration.

Authority: 55 Comp. Gen. 515. 55 Comp. Gen. 539. 55 Comp. Gen. 785. B-187287 (1977). B-183086 (1977); P.P.M. 300-8.8-4f.

Phillip M. Hudson, Jr., Authorizing Certifying Officer for the Maritime Administration, requested an advance decision with regard to a claim for backpay for performing duties of a higher grade than those of the position to which the employee was appointed. The classified higher grade position existed for only 14 days during the period the claimant filled the position. The claim was disallowed since backpay may be granted only for those portions of details to classified positions in a higher grade which exceed 120 days without Civil Service Commission approval. (Author/SC)

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Robert M. Rissler
Civ. Pers.



DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-187243

DATE: June 17, 1977

MATTER OF: Charles E. Wassner - Detail to Higher Grade

DIGEST: Employee claims backpay for performing duties of classified GS-14 position for 34 days in 1970 while a GS-11 and duties of GS-13 position from December 12, 1970, to March 30, 1976, initially while a GS-11 and later as a GS-12. Classified GS-13 position existed for only 114 days during this period. Claim must be disallowed since retroactive temporary promotions and backpay may be granted only for those portions of details to classified positions in higher grade which exceed 120 days without CSC approval.

By letter received in the General Accounting Office on August 20, 1976, Mr. Phillip M. Hudson, Jr., Authorized Certifying Officer, Maritime Administration, United States Department of Commerce, transmitted and requested an advance decision on the claim of Mr. Charles E. Wassner for backpay for performing duties of a higher grade than those of the position to which he was officially appointed. Mr. Wassner's claim covers only the period from January 1, 1972, to March 3, 1976, and includes a certification by his immediate supervisor that he did perform the higher grade duties. However, the certifying officer states that Mr. Wassner performed higher grade duties for the additional periods from November 10, 1970, to January 1, 1972, and from March 4, to March 30, 1976, and has requested a ruling as to the claimant's entitlement for those periods as well.

At the beginning of the period covered by the claim Mr. Wassner was a Marine Surveyor, GS-11, in an organization headed by a Supervisory Marine Surveyor, GS-14. There was no position classified in grade GS-13 in the organization at that time. Such a position had existed earlier but, while the record is not entirely clear, it is believed to have been eliminated as a result of a reduction in staff.

On November 9, 1970, the incumbent of the grade GS-14 position died and Mr. Wassner performed the duties of that position for a period of 34 days from November 10, to December 12, 1970, on which date it was filled by another employee. From then to March 30, 1976, Mr. Wassner performed many of the supervisory duties which

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had been performed earlier by the incumbent of the grade GS-13 position when it existed.

Mr. Wassner was promoted to Marine Surveyor Specialist GS-12 on July 9, 1972. This grade GS-12 position did not include supervisory duties and it is not alleged that he performed its duties while a grade GS-11.

A position classified as Supervisory Marine Surveyor GS-13 was established on December 31, 1974, and continued in existence for 114 days of the period covered by the claim until April 23, 1975, when it was cancelled. This position remained vacant throughout its existence.

At no time during the period in question was Mr. Wassner officially detailed to a grade GS-13 or GS-14 position. When his claim came to the attention of the Central Region Director on March 30, 1976, that official directed that, if Mr. Wassner had been assigned supervisory duties, that assignment be terminated immediately.

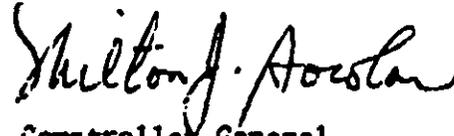
The general rule is that an employee is entitled only to the salary of the position to which actually appointed regardless of the duties performed, that a position classification action may not be given retroactive effect, and that there is no right to backpay for a period during which a position is alleged to have been incorrectly classified. 55 Comp. Gen. 515 (1975), United States v. Testan, 424 U.S. 392 (1976). However, a limited exception to the general rule that an employee is entitled only to the compensation of the position to which appointed has been recognized in our decision in Matter of Reconsideration of Everett Turner and David L. Caldwell, # 183086, March 23, 1977, 56 Comp. Gen. ____.

This decision affirms the two earlier decisions cited in Mr. Wassner's claim, Matter of Everett Turner and David L. Caldwell, 55 Comp. Gen. 539 (1975), and Matter of Marie Grant, 55 Comp. Gen. 765 (1976). These decisions authorize retroactive temporary promotions and backpay for those portions of details to higher grade positions which are in excess of 120 days, provided the requirements for promotion have been met, when the approval of the Civil Service Commission to extend details beyond 120 days has not been obtained in accordance with paragraph 8-4f of subchapter 8, chapter 300, Federal Personnel Manual. However, these decisions apply only to

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details to positions which have been classified in higher grade by competent authority since there can be no promotion to a position which has not been classified. Matter of Hubert J. Buteau, B-187287, May 13, 1977.

Viewing the situation in the most favorable light, we can conclude only that Mr. Wassner was detailed to a classified GS-14 position for 34 days in 1970 and subsequently was detailed to classified GS-13 position for 114 days in 1974 and 1975. Inasmuch as he was not detailed to either position for long than 120 days he does not meet the requirements of our decisions for retroactive temporary promotion or backpay and his claim is, therefore, disallowed.



Acting Comptroller General
of the United States