

DOCUMENT RESUME

03535 - [A2513650]

[Retroactive Promotion and Backpay for Extended Detail in Redesignated Position]. B-183066. September 7, 1977. 3 pp.

Decision re: William D. Yancey; by Robert F. Keller, Deputy 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: Federal Trade Commission.

Authority: 31 U.S.C. 71a (Supp. V). 32 Comp. Gen. 267. 45 Comp. Gen. 172. 55 Comp. Gen. 539. 55 Comp. Gen. 785. 5 C.F.R. 550(H).

James A. Williams, Director, Division of Budget and Finance of the Federal Trade Commission (FTC), requested an advance decision with regard to the claim of an employee for a retroactive temporary promotion and backpay as a result of an extended detail to a higher grade position. Although the employee was entitled to retroactive promotion with backpay, the portion of the claim that accrued prior to October 7, 1970, was barred from payment by the statute of limitations. (Author/SC)

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*J. Lygton  
Civ. Serv.*

**DECISION**



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

FILE: B-183086

DATE: September 7, 1977

MATTER OF: William D. Yancey - Retroactive Promotion and  
Backpay for Extended Detail in Redesignated Position

- DIGEST:
1. Employee was detailed November 1, 1969, to GS-15, Comptroller position. On July 1, 1970, agency reorganization redesignated position as Chief, Budget and Finance Division, without preparing new position description and employee was detailed to this position until July 25, 1971, when he was promoted into it. No extension of detail was ever obtained. Agency questions whether redesignation of position served to terminate original detail. Since no new position description was prepared significantly changing duties of position, employee's detail continued in old position which was merely redesignated and under our Turner-Caldwell decision 55 Comp. Gen. 539 (1975) employee is entitled to retroactive promotion with backpay.
  2. Claimant's claim for backpay incident to detail, which began on November 1, 1969, and continued in excess of 120 days, was received in GAO on October 7, 1976. Under our 6-year statute of limitations, U.S.C. § 71a, any portion of claim not within 6 years preceding the date of claim receipt is forever barred. Hence, portion of claim that accrued prior to October 7, 1970, may not be considered by our Office.

This action concerns a request from Mr. James A. Williams, Director, Division of Budget and Finance, Federal Trade Commission (FTC), for an advance decision on the claim of Mr. William D. Yancey, for a retroactive temporary promotion and backpay as a result of an extended detail to a higher grade position, where FTC failed to obtain approval from the Civil Service Commission for the detail to continue past the initial 120-day period.

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While occupying the grade GS-14 position of Financial Manager (Assistant to the Comptroller), Mr. Yancey assumed the duties in an "acting" capacity of the grade GS-15, Financial Manager (Comptroller), position on November 1, 1969, as he was obligated to do under his position description. On July 1, 1970, as a result of an FTC reorganization, the Office of the Comptroller became the Division of Budget and Finance. Because no one was permanently assigned to the Comptroller position, which under the reorganization was to become the Chief, Division of Budget and Finance, no position description was prepared for this latter position at the time of the July 1, 1970 reorganization. Mr. Yancey, however, was officially instructed by Casper W. Weinberger, then Chairman of the Commission, to serve as Acting Chief, Division of Budget and Finance. Apparently the Comptroller position description remained in effect until July 25, 1971, when a position description was prepared for Chief, Division of Budget and Finance, and Mr. Yancey was promoted to the grade GS-15 position, which terminated his detail.

It should be noted that Mr. Yancey's claim was first received in our Office on October 7, 1976. In this connection, 31 U.S.C. § 71a (Supp. V, 1975) provides that a claim against the United States cognizable by this Office shall be forever barred unless such claim shall be received in our Office within 6 years after the date such claim first accrued. Consequently, the portion of Mr. Yancey's claim that accrued prior to October 7, 1970, may not be considered by our Office and payment thereon is forever barred. 32 Comp. Gen. 267 (1952) and 45 Comp. Gen. 172 (1965).

The question posed by the FTC is whether the July 1, 1970 reorganization and the redesignation of the higher grade position from Comptroller to Chief, Budget and Finance Division, effectively terminated Mr. Yancey's detail. We are of the opinion that it did not serve to terminate his detail. In substance, the higher grade position was redesignated and the old Comptroller position description remained effective until Mr. Yancey was promoted into it.

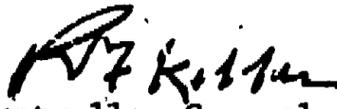
Under our Turner-Caldwell decision, 55 Comp. Gen. 539 (1975), affirmed in Reconsideration of Turner-Caldwell decision, B-183086, March 23, 1977, 56 Comp. Gen. \_\_\_\_\_, we held that employees detailed to higher grade positions for more than 120 days, without prior Civil Service Commission approval, are entitled to retroactive temporary promotions with backpay for the period beginning with the

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121st day of the detail until the detail is terminated, provided they are otherwise qualified for such promotions. This entitlement was made retroactively effective, subject to the statute of limitations on claims, in Marie Grant, 55 Comp. Gen. 785 (1976).

Mr. Yancey was detailed to the GS-15 position on November 1, 1969, and his 121st day in the detail occurred on March 1, 1970. He continued to serve on detail until the day preceding July 25, 1971, when he was promoted, which terminated the detail. Therefore, he is entitled to retroactive promotion and backpay under Turner-Caldwell, supra. However, as noted above, the portion of his claim prior to October 7, 1970, is barred by our statute of limitations.

Accordingly, Mr. Yancey should be awarded a retroactive temporary promotion to grade GS-15 effective as of October 7, 1970, running through July 24, 1971, and he should receive backpay for this period computed pursuant to Civil Service Commission regulations contained in 5 C.F.R. Part 550, subpart H.

  
Deputy Comptroller General  
of the United States