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DECISION

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

FILE: B-193975

DATE: October 3, 1979

MATTER OF: Francis W. McConnell - ^[Claim for] Retroactive
Temporary Promotion and Backpay]

DIGEST: Civilian employed by Department of the Navy as an assistant meatcutter claims a retroactive temporary promotion and backpay while performing higher level duties of a meatcutter in light of decision in Turner-Caldwell, 56 Comp. Gen. 427 (1977). Claim is denied as employee has not presented evidence which establishes that he was detailed to meatcutter position and that he performed the full range of duties of the higher grade position.

By letter of December 18, 1978, Mr. Francis W. McConnell appeals the disallowance of our Claims Division of his claim for a retroactive temporary promotion and backpay for the period June 1, 1972, to the present. The Claims Division disallowed the claim on the basis that while Mr. McConnell may have performed duties which would ordinarily be performed by an employee classified at a higher grade, he had not presented sufficient evidence to establish that he was detailed to a higher grade position. The record sustains the disallowance of Mr. McConnell's claim.

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Mr. McConnell is employed as an assistant meatcutter, WG-5, by the Department of the Navy, Navy Commissary Store Region, San Diego. He claims a temporary retroactive promotion with backpay incident to his alleged detail from June 1, 1972, to the position of meatcutter, WG-8.

The record shows that the duties of a meatcutter, WG-8 position, as set forth in the official position description include cutting, trimming and shaping meat using knives, cleavers, band saw, etc; inspecting meat for quantity and quality, assisting in the training of military meatcutters, etc. The meatcutters also assist their supervisor in making periodic cutting tests to determine the proper price for various cuts.

Mr. McConnell has submitted as evidence of his detail the following statement signed by three foremen, a store worker foreman and two meatcutter foremen.

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"From June 1 1972, to the present time, as an operator on the large power saws, I have been breaking beef to prime cuts, cutting beef, pork and lamb on the same basis as a meatcutter."

Mr. McConnell's claim is based on decisions of our Office and implementing Civil Service Commission guidance, that employees who are detailed to higher grade positions for more than 120 days without Civil Service Commission approval are entitled to a retroactive promotion with backpay for the period beginning with the 121st day of the detail until the detail is terminated. Marie Grant, 55 Comp. Gen. 785 (1976); Reconsideration of Turner-Caldwell, 56 Comp. Gen. 427 (1977), and Civil Service Commission (CSC) Bulletin No. 300-40, May 25, 1977.

The burden is on the claimant to establish the liability of the United States and the claimant's right to payment. See 4 C.F.R. § 31.7 (1978). With regard to what constitutes acceptable proof of a detail, para. 8E of CSC Bulletin 300-40, states in pertinent part that acceptable documentation includes official personnel documents or official memoranda, a decision under established grievance procedures, or a written statement from the person who supervised the employee during the period in question or other management official familiar with the work, certifying that to his or her personal knowledge the employee performed the duties of the particular, established classified position for the period claimed.

There are no official records of any detail of Mr. McConnell to the meatcutter position.

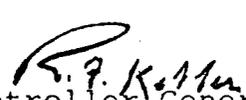
As was noted in the settlement of our Claims Division, a detail does not occur merely through an employee's performance of a set of duties, but requires assignment of the employee to a particular position. We have held that even where an employee performs work which is "substantially equal" to that of a higher grade position, such work does not constitute a detail to a higher grade position, but is only an accretion of duties. Patrick J. Fleming, B-191413, May 22, 1978, September 19, 1978.

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The statement that Mr. McConnell cut meat on the powersaw on the same basis as a meatcutter is insufficient evidence to establish that he was detailed to the higher grade position. While Mr. McConnell may in fact have been cutting meat on the same basis as a meatcutter, he has not presented any evidence which would establish that he was assigned to, and did, in fact, perform the full range of duties of the meatcutter position. Mr. McConnell has not met his burden of proof that he was detailed to a specific higher grade position. See John R. Figard, B-181700, January 18, 1978.

The general rule in cases involving an accretion of duties is that an employee is entitled only to the salary of the position to which he has been appointed regardless of the duties he may perform. See Dianish v. United States, 183 Ct. Cl. 702 (1968), Coleman v. United States, 100 Ct. Cl. 41 (1943), and Patrick L. Peters, B-189663, November 23, 1977.

Accordingly, the Claims Division settlement denying Mr. McConnell's claim for additional compensation for performing higher grade duties is sustained. Claims Division similarly denied the claims for backpay presented by eight other assistant meatcutters in the San Diego region. These assistant meatcutters have provided as evidence of their alleged detail a statement identical to that presented by Mr. McConnell, except for the period of time specified. The determination on Mr. McConnell's appeal is applicable to these claimants.


Deputy Comptroller General
of the United States