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DECISION



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

FILE: B-198185/B-198165

DATE: June 4, 1980

MATTER OF: Ellis W. Douglas and Johnny L. Bell - Retroactive
Temporary Promotion *with Backpay* ^[Claim for]

DIGEST: Two Custodial Laborers, WG-3566-1, claim retroactive temporary promotions for a period of time after their temporary promotions to higher-level positions had terminated because they continued to perform higher-level duties. They are not entitled to retroactive temporary promotions as the record indicates that although they performed some duties of higher-level positions neither employee performed all the duties of a single established and classified position.

Mr. Ellis W. Douglas and Mr. Johnny L. Bell have appealed the denial by our Claims Division of their claims for retroactive temporary promotions with backpay for extended details to higher-level positions.

The record shows that Mr. Douglas and Mr. Bell, WG-3566-1 Custodial Laborers employed by the General Services Administration (GSA) in Los Angeles, California, were assigned to work at the Federal Building in Pasadena, California, on December 15, 1975. They received temporary promotions from Custodial Laborer, WG-3566-1, to Laborer, WG-3502-2, effective January 4, 1976. These actions were documented by SF-50s dated January 2, 1976.

The temporary promotions were terminated effective May 3, 1976, and the employees were returned to their lower grades. These actions were documented by SF-50s dated May 3, 1976. Mr. Douglas and Mr. Bell completed their assignment at the Pasadena Federal Building and returned to work in Los Angeles in March 1978.

Mr. Douglas and Mr. Bell claim that they performed such duties as lampist, grounds maintenance/gardening, plumbing, and parking lot cleaning in addition to WG-1 Custodial laboring work on their assignment to the Pasadena Federal Building through the period of temporary promotion to Laborer, WG-3502-2, positions and that such duties continued to be performed after their change to lower grade on May 3, 1976. They support their claim with memoranda from their foreman and the Custodial Supervisor who

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B-198185/B-198165

state that the two employees performed work generally assigned to higher-grade employees. Their authorized union representative states that they performed work up to the WG-5 level for 75 percent of their time.

In denying Mr. Douglas' and Mr. Bell's claim our Claims Division relied on GSA's contention that the employees did not continue to perform the duties of Laborer, WG-3502-2, after their detail had terminated and they were not detailed to any other established position.

The Claims Division found that the employees performed certain duties which were normally associated with higher-grade levels but it pointed out that this was a classification matter and there is no right to backpay for a period of wrongful classification. United States v. Testan, 424 U.S. 392 (1976).

The disallowance of these claims is sustained. Even though an employee may have performed some additional higher-level duties, the fact that he does not perform all of the duties of an established and classified position at a higher-grade necessitates a finding that the employee is not entitled to a retroactive temporary promotion. Elmer R. Franklin, B-195944, January 23, 1980. The record here shows that neither Mr. Douglas nor Mr. Bell performed all of the higher-level duties of a specific established and classified job. Rather, in addition to WG-1 Custodial laboring work, each performed a variety of other duties not representing a single position assignment. In view of the facts presented, the disallowance of the claims must be sustained. William L. DeGraw, B-194369, August 24, 1979.



For the Comptroller General
of the United States