

Botsford PL-1

17358

DECISION



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

FILE: B-198393

DATE: March 17, 1981

MATTER OF: Allen C. Howard - Claim for Backpay -
Detail to Higher-Grade Position

DIGEST: Employee claims retroactive temporary promotion and backpay for alleged overlong detail to a higher-grade position. Claim is denied since employee has failed to meet burden of proof to support claim that he was detailed to and performed the duties of the higher-grade position.

This is in response to the appeal of Mr. Allen C. Howard from Settlement Certificate Z-2819628, dated January 16, 1980, by which our Claims Division denied his [claim for retroactive temporary promotion and backpay] for a period during which he contends he performed the duties of a higher-grade position.

Mr. Howard was employed by the Department of the Navy at the Philadelphia Naval Shipyard as a Policeman, GS-083-5. From April to November of 1974, he was assigned to the Detective Unit following his return to duty after an injury. Mr. Howard contends that his assignment to the Detective Unit was a detail since he performed the duties of a Detective, GS-083-7 position. He claims entitlement on the basis of our Turner-Caldwell decision, 55 Comp. Gen. 539 (1975), affirmed at 56 id. 427 (1977) in which we held that where an employee is detailed to a higher-grade position and the agency fails to seek Civil Service Commission (now Office of Personnel Management) approval to extend the detail for a period beyond 120 days, the agency must award the employee a retroactive promotion and backpay for the period of the detail in excess of 120 days.

Mr. Howard's claim was denied by his agency after the Civil Service Commission found that no detail had occurred since the duties he performed in the Detective Unit were within his position description. Our Claims Division also denied Mr. Howard's claim since he failed to provide any evidence to show that he was in fact detailed to a higher-grade position.

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We must sustain the adjudication of our Claims Division. As pointed out in the Settlement Certificate, 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 (1980). With regard to what constitutes acceptable proof of a detail, Civil Service Commission Bulletin No. 300-40, May 25, 1977, at paragraph 8F, 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. Furthermore, an employee is considered to have been detailed only insofar as he was assigned all the essential duties of the higher level position. Lawrence D. Sutton, B-195598, December 20, 1979.

Mr. Howard has not provided any evidence of official recognition of assignment to a detail and performance of the full range of higher grade duties during the time period in question. He has not, therefore, met his burden of establishing the liability of the United States and his right to payment.

Mr. Howard has requested that an investigator be assigned to examine his claim. This is not possible for, according to our regulations, 4 C.F.R. Parts 31 and 32 (1980), the General Accounting Office decides claims only on the basis of written evidence submitted by the employee and the agency involved.

Accordingly, we sustain our Claims Division settlement denying Mr. Howard's claim for retroactive promotion and backpay.



Acting Comptroller General
of the United States