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**DECISION**



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

**FILE:** B-203926

**DATE:** September 22, 1981

**MATTER OF:** Dennis F. Morgan - Retroactive Temporary Promotion ]

**DIGEST:** Employee of the Department of the Navy, WG-7, claims retroactive temporary promotion for having performed WG-8 duties. Under Turner-Caldwell decisions, employee must establish that he performed full range of duties of a higher level position before he is eligible for a retroactive promotion and backpay. Since employee claims to have performed only some higher-grade duties, claim is denied. See Francis W. McConnell, B-193975, October 3, 1979.

By a letter dated May 29, 1981, Mr. Dennis F. Morgan, through his attorney, [appealed the action of our Claims Group] in Settlement Certificate No. Z-2821166, issued October 2, 1980. That action [disallowed his claim for a retroactive temporary promotion and backpay] from Motor Vehicle Operator, WG-7, to the WG-8 level from October 1974 until July 1979. For the reasons stated herein we affirmed the action of the Claims Group.

Mr. Morgan is an employee of the Department of the Navy who works at the Navy Public Works Center, Norfolk, Virginia. In a memorandum dated September 24, 1979, [Mr. Morgan and other employees requested backpay from] October 1974 until July 1979, [for having driven the truck part of a crane for the previous 5-1/2 years -- a duty they contended should be compensated at the WG-8 level, not WG-7.] He was informed in November 1979 that driving the truck part of a crane was work properly classified at the WG-7 level.

On February 11, 1980, through his attorney, Mr. Morgan filed a claim with the Civilian Personnel Office at the Navy Public Works Center and with the General Accounting Office. His claim was disallowed by our Claims Group on the basis of information furnished by the Department of the Navy indicating that Mr. Morgan did not perform the duties of a WG-8 position. In support of his appeal Mr. Morgan has supplied a statement signed by his former supervisor, [John N. Cradle, on February 14, 1978, which stated that Mr. Morgan and others performed the duties

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of Motor Vehicle Operator, WG-8, for approximately 1-1/2 years. Mr. Cradle more specifically states that Mr. Morgan and 2 other employees operated truck mounted cranes in accordance with paragraph g of WG-8 Position Description # 70-15-1.

Mr. Morgan's claim is based on Turner-Caldwell, 55 Comp. Gen. 539 (1975), affirmed, 56 id. 427 (1977). That decision held that [an employee who is detailed to a higher-grade position for more than 120 days without prior Civil Service Commission (now Office of Personnel Management) approval is entitled to a retroactive temporary promotion and backpay beginning on the 121st day of the detail. The burden of proof is on a claimant to show that he or she was in fact detailed to and did perform the duties of a higher-grade position.] Ella L. Tedesco, B-201945, June 4, 1981.

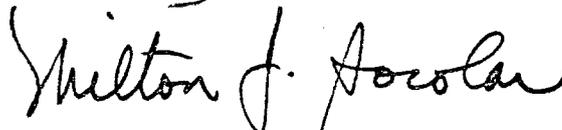
[Based on our review of the material submitted by Mr. Morgan in support of his claim, we are unable to find that he has established that he was in fact detailed to a higher-grade position.] We recognize that there is a dispute between the claimant and the agency as to whether the particular duties he performed were within the scope of his own WG-7 Position Description or whether they were within a WG-8 Position Description. However, resolution of this dispute between claimant and the agency is not critical to the determination of Mr. Morgan's entitlement to a retroactive promotion with backpay.

As indicated in Francis W. McConnell, B-193975, October 3, 1979, [an employee seeking to recover backpay on the basis of an alleged detail to a higher grade position must submit evidence to establish that he was assigned to and did, in fact, perform the full range of duties of the higher-grade position. The material submitted by Mr. Morgan is insufficient to establish that he was detailed to the full range of duties of a WG-8 position.] His original claim dated September 24, 1979, alleged that he performed WG-8 duties 75 percent of the time. [The statement of Mr. Cradle enumerates only some WG-8 duties alleged to have been performed

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by Mr. Morgan. On the other hand the Department of the Navy in a letter dated February 29, 1980, states that Mr. Morgan did not perform, and has not claimed that he performed, the full range of duties of a WG-8 position.)

Accordingly, since Mr. Morgan has not supplied sufficient documentation to demonstrate that he was detailed to and performed the full range of duties of a higher-grade position, the disallowance of his claim by our Claims Group is sustained.)



Acting Comptroller General  
of the United States