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DECISION



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

FILE: B-205760

DATE: July 13, 1982

MATTER OF: James C. Bognore - Retroactive temporary promotion with backpay incident to an overlong detail

DIGEST:

A GS-12 employee of the Department of the Navy, claims a retroactive temporary promotion with backpay under our Turner-Caldwell decisions, for allegedly having performed 92 percent of the duties of a higher graded, GS-13, position during an overlong detail. However, the Court of Claims ruled in Wilson v. United States, Ct. Cl. No. 324-81C, Order, October 23, 1981, that employees have no entitlement under the applicable statute (5 U.S.C. § 3341 (1976)) or the Federal Personnel Manual to temporary promotions for overlong details. Since we have recently ruled that we will follow the Wilson decision and no longer follow our prior Turner-Caldwell decisions with respect to pending or future cases, the employee's claim is denied. See Turner-Caldwell III, B-203564, May 25, 1982, 61 Comp. Gen. ____ (1982).

The issue in this decision is whether an employee is entitled to a retroactive temporary promotion with backpay incident to an overlong detail to a higher graded position, based on our decisions in Turner-Caldwell, 55 Comp. Gen. 539 (1975), sustained in 56 Comp. Gen. 427 (1977).

Mr. James C. Bognore requests reconsideration of his claim for a retroactive temporary promotion with backpay which our Claims Group disallowed by Settlement Certificate Z-2830761, June 26, 1981. Mr. Bognore, a GS-12 employee of the Navy, claims a retroactive temporary promotion with backpay due to an overlong detail to a GS-13 position. Our Claims Group disallowed his claim because Mr. Bognore did not perform the full range of duties of the higher graded position and because his detail did not exceed the 240-day limit established under Federal Personnel Manual Bulletin 300-48, effective, February 15, 1979.

Mr. Bognore appeals this settlement asserting that he performed 92 percent of the duties of the higher graded position and that his detail lasted from February 12, 1979, to May 1, 1980, a period of approximately 450 days.

We sustain our Claims Group's disallowance of the claim for the following reason. Mr. Bognore's claim rests upon our Turner-Caldwell decisions, which held that employees who were detailed to higher graded positions for overlong periods without prior approval by the United States Civil Service Commission (now Office of Personnel Management), are entitled to retroactive temporary promotions with backpay. Recently, however, the United States Court of Claims decided in Wilson v. United States, Ct. Cl. No. 324-81C, Order, October 23, 1981, that neither the applicable statute (5 U.S.C. § 3341 (1976)) nor the Federal Personnel Manual authorizes a retroactive temporary promotion with backpay in cases involving overlong details.

In Turner-Caldwell III, B-203564, May 25, 1982, 61 Comp. Gen. _____ (1982), on the basis of the Wilson decision, we held with respect to all claims submitted here for decision, both pending and future, that we would no longer follow our prior Turner-Caldwell decisions. Accordingly, Mr. Bognore's claim is denied.

Milton J. Fowler
for Comptroller General
of the United States