

DECISION

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

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FILE: B-212417**DATE:** October 21, 1983**MATTER OF:** Joe M. Butto

DIGEST: An employee of the Air Force claims backpay for the difference in pay between WG-7 and WS-5 grade levels because his job description contained supervisory duties. A Government employee is entitled only to the salary of his appointed position regardless of the duties he performs. Also, the United States Supreme Court has held that neither the Back Pay Act nor the Classification Act creates a right to backpay for past periods of alleged wrongful grade classification. Hence, the employee's claim may not be allowed.

The issue presented is whether Mr. Joe M. Butto, a civilian employee of the Air Force, may be retroactively compensated at a higher rate for having performed supervisory duties. There is no authority for retroactive compensation in these circumstances.¹

Mr. Butto was appointed to the position of motor-vehicle operator, grade WG-7, on June 30, 1974, at Mather Air Force Base, California. He remained in this position until January 11, 1982. The position description included management responsibilities at the Base Linen Exchange, including the supervision of two grade WG-6 motor vehicle operators. Mr. Butto suggests that he should have been compensated at the higher grade WS-5 level because of the supervisory functions of his position. Therefore, he claims backpay for the difference in pay between the WG-7 and WS-5 grade levels from June 1974 to January 1982, in a total amount of \$30,561.28.

At the outset we note that under the provisions of 31 U.S.C. § 3702(b) all claims and demands against

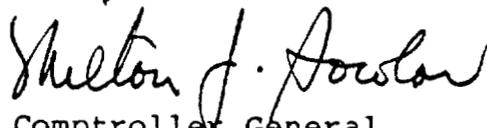
¹ This decision is in response to a request dated July 14, 1983, from the Accounting and Finance Officer, 323d Flying Training Wing, Mather Air Force Base, California, which was submitted under the provisions of 31 U.S.C. § 3529.

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the United States cognizable by the General Accounting Office shall be forever barred unless received in that Office within 6 years after the date the claim first accrued. Since we first received Mr. Butto's claim on July 19, 1983, the portion of his claim to additional pay for periods prior to July 19, 1977, is barred by that 6-year statute of limitations and may not be considered by us.

Regarding Mr. Butto's contention that he should have been compensated at the grade WS-5 level for periods after July 19, 1977, the rule is fundamental that an employee of the Government is entitled only to the salary of the position to which he is appointed, regardless of the duties he performs. Where an employee performs duties normally performed by one in a grade level higher than the one he holds, he is not entitled to the salary of the higher position. Matter of McGrath, 57 Comp. Gen. 404 (1978); Matter of Felder, B-202685, August 17, 1982. An employee who believes that he is performing duties commensurate with a higher level position may seek prospective reclassification through a position classification appeal under the Classification Act and implementing procedures set forth in 5 C.F.R. §§ 511.601-511.703. However, the United States Supreme Court has ruled that neither the Back Pay Act, 5 U.S.C. § 5596, nor the Classification Act, 5 U.S.C. §§ 5101-5115, provides a retroactive right to backpay for past periods of alleged wrongful grade classification. Testan v. United States, 424 U.S. 392 (1976).

Accordingly, Mr. Butto's claim for backpay may not be allowed.

for 
Comptroller General
of the United States