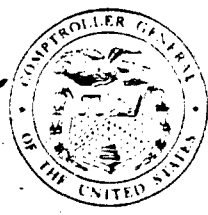


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DECISION



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

FILE: B-192720

DATE: September 14, 1979

MATTER OF: Doris M. Palmer -- *Claim for Backpay and Retroactive Promotion*

DIGEST:

GS-4 employee was informally detailed to another GS-4 position on November 2, 1971, and was officially reassigned to that position on March 5, 1972. Employee claims backpay and retroactive promotion to GS-5 from March 5, 1972, until September 3, 1972, when she was promoted to GS-5. Employee is not entitled to backpay since reassignment terminated detail and claim after termination was, in actuality, based upon alleged error in classification of position. Also, promotion to GS-5 resulted from employee classification appeal to Civil Service Commission on ground that she was performing GS-7 work. Agency reclassified position to GS-5 and commission held position was properly classified.

Ms. Doris Palmer appeals Settlement Z-2746329 issued by our Claims Division on July 17, 1978, denying her claim for backpay incident to a detail for more than 120 days. Ms. Palmer is claiming the difference in compensation between a GS-4 and GS-5 position for the period from March 5, 1972, until September 2, 1972, on the basis of the following evidence.

On November 2, 1971, Ms. Palmer was informally detailed from a GS-4 Physical Science Technician position in the New Crops Oil Screening Investigations, Agricultural Research Service, United States Department of Agriculture, to a GS-4 Physical Science Technician, New Crops Fibrous Products Screening Investigations. She states that she was officially reassigned to the latter position on March 5, 1972, and on March 24, 1972, actually started performing in an established GS-7 position when the incumbent retired from that position. On September 3, 1972, she was promoted to GS-5.

AGC 00269

Ms. Palmer appears to base her claim on our Turner-Caldwell decision, 56 Comp. Gen. 427 (1977). In that decision we affirmed

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our holding in 55 Comp. Gen. 539 (1975), that two employees who were detailed to higher-graded positions for periods in excess of 120 days without Civil Service Commission approval were entitled to retroactive temporary promotions from the beginning of the 121st day until the details were terminated. That decision is for application when an employee was detailed to an established higher-graded position. It does not apply to situations involving alleged classification errors. In fact, paragraph 4 of Civil Service Bulletin 300-40, May 25, 1977, implementing our decision states:

AGC 00013

"* * * Care must be taken to distinguish between employee claims based on details to higher graded positions and to claims based on a classification action; only the former may be considered for retroactive correction * * *."

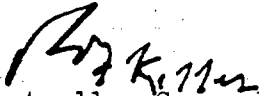
From our review of the record it is clear that Ms. Palmer's claim is based on alleged classification error, for the following reasons.

Ms. Palmer's claim for backpay is for the period beginning March 5, 1972. However, on that date, her informal detail to the New Crops Fibrous Products Screening Investigation group was terminated and she was permanently reassigned to that group as a GS-4 employee. Thus, the Turner-Caldwell decision is not applicable. In this connection Ms. Palmer submitted statements from various employees that she was performing the same functions as her GS-7 predecessor in the position.

Whether she was performing at a level higher than the GS-4 level that she was officially assigned to in her new position is a classification matter. In such case, the proper course of action was an appeal under the provisions of 5 C.F.R. Part 511, subpart F, of the position classification to the Civil Service Commission, which had jurisdiction over appeals at that time. In this respect we note that Ms. Palmer's promotion to GS-5 resulted from an appeal to the commission on the ground that she was performing GS-7 duties. While the appeal was being processed the agency conducted a desk audit and reclassified the position to GS-5. Despite this action Ms. Palmer pursued the appeal and the commission held the position was properly classified at GS-5.

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Accordingly, we must uphold the Claims Division denial of Ms. Palmer's claim.


Deputy Comptroller General
of the United States