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PLM-11

DECISION



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

FILE: B-193457

DATE: August 24, 1979

[Claim for Retroactive Temporary Promotion with]

MATTER OF: Lee B. Tolbert - Backpay for Extended Detail]

DIGEST: Although some of the duties of the position to which a GS-9 employee claims he was detailed were previously performed by a GS-12 employee and some were subsequently performed by a GS-13, he may not receive backpay for an extended detail because the position to which he was detailed is not shown to have been officially established and classified as a higher grade position during the period covered by his claim.

Mr. Lee Tolbert has appealed the determination that he is not entitled to a retroactive temporary promotion with backpay for an extended detail to a higher-graded position. For the reasons set forth below, the disallowance of the claim is sustained.

By memorandum of July 17, 1972, Mr. Tolbert, an employee of the Department of Housing and Urban Development (HUD), employed in Newark, New Jersey, was advised that: DLG 02628

"Until further notice, you are hereby detailed to act as Special Underwriting Assistant to the Assistant Director, S.F.O.B."

Mr. Tolbert continued to perform those duties until September 5, 1973. He was officially appointed to a position at the grade GS-9 level until May 27, 1973, and at the grade GS-11 level for the remainder of the period involved. He alleges that the Newark Office where he worked did not have a Deputy Assistant Director until January 1973, when that position was filled at the grade GS-13 level. Mr. Tolbert alleges that the duties he performed were the same as those performed by the Deputy Assistant Director, but does not state whether that position existed as a classified position at the grade GS-13 level prior to being filled in January 1973. Finally, a memorandum dated June 11, 1973, describing the duties performed by Mr. Tolbert during his detail, states that the detail was necessitated by the reassignment of Appraiser Matthew Kolek to Field Supervisor, a GS-12.

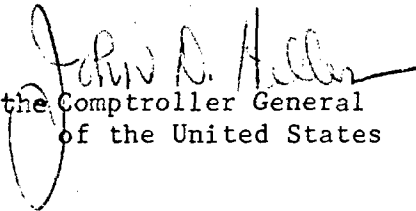
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Mr. Tolbert's claim for backpay for an allegedly extended detail was denied by HUD on the ground that there was no evidence that the duties he performed were classified at a higher grade than the one he held. Our Claims Division disallowed Mr. Tolbert's claim in a settlement dated December 29, 1977.

In the letter submitted by Mr. Tolbert's representative requesting reconsideration it is pointed out that the position to which he was detailed was a new position, Special Underwriting Assistant to the Assistant Director, and that some of the duties of the position were previously performed by a grade GS-12 employee and subsequently by a GS-13 employee. While these statements appear to be correct, there is nothing in the record to indicate that the position of Special Underwriting Assistant to the Assistant Director was an established and classified position at any grade level. Our cases have consistently held that in order to recover backpay for an extended detail, the detail must have been to a position that was officially established and classified at a higher grade. Matter of Sherman W. Blosser, B-189492, February 14, 1978, and Matter of Raymond F. Kennedy, B-185730, June 1, 1977.

Since there is no evidence that the position to which Mr. Tolbert was detailed was officially established and classified as a GS-11, GS-12 or GS-13 position, the disallowance of his claim is sustained.


For the Comptroller General
of the United States