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PLM-1

**DECISION**



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

*[Claims for Retroactive Temporary Promotions with Backpay]*

FILE: B-193959

DATE: September 21, 1979

MATTER OF: William L. Hurt and Walter Hayward

**DIGEST:** Excepted service wage system employees with veterans readjustment appointments on intermittent basis may receive temporary promotions and backpay under Turner-Caldwell decisions for overlong details to higher grade General Schedule positions in competitive service if details were part of documented training programs. Civil Service Commission held prior approval by it was not necessary under such programs and 5 C.F.R. § 307.106 permits promotion of such employees who meet qualification standards. Also, General Schedule and wage system employees should be treated in like manner. Temporary promotions and backpay would commence on 121st calendar day of intermittent details, not 121st workday.

*DLG-0 2082*

Janice K. Mendenhall, Controller-Director of Administration, General Services Administration (GSA), has requested an advance decision concerning the claims of William L. Hurt and Walter Hayward to retroactive temporary promotions and backpay based upon details to higher-level positions for periods of more than 120 days.

Both claimants received wage board veterans readjustment appointments in the excepted service and were detailed to higher grade positions in the competitive service. Also, Mr. Hurt was employed on an intermittent basis. The Controller-Director asks these specific questions concerning the claims:

1. Was our intent in the Turner-Caldwell decisions, 55 Comp. Gen. 539 (1975) and 56 *id.* 427 (1977), to allow such employees retroactive temporary promotions and backpay beginning with the 121st day of the detail if approval had not been obtained from the Civil Service Commission (CSC) to extend the detail?
2. If the answer to question 1 is affirmative, are General Schedule and wage system employees treated in a like manner?
3. Does the 120-day period of an allowable detail permitted by the Federal Personnel Manual, Chapter 300, mean calendar days so that an intermittent employee would be entitled to backpay on the 121st calendar day of an overlong detail?

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Prior to requesting our decision, GSA asked the Bureau of Recruiting and Examining, United States Civil Service Commission, whether an employee who has a veterans readjustment appointment can be detailed to other positions without prior Commission approval. By letter of July 24, 1978, the Commission advised GSA as follows:

"Section 6.5 of Civil Service Rule VI requires that prior Commission approval be obtained when excepted employees are assigned to do the work of competitive positions. However, in the case of employees who are serving under veterans readjustment appointments, prior approval would not have to be obtained if the detail of the employee to another position is part of the documented training program which veterans readjustment appointees are required to have. This would apply to both Wage System and General Schedule employees.

"The partial exception to section 6.5 of Civil Service Rule VI, described above, does not relieve agencies from complying with other requirements concerning details which are described in subchapter 8 of FPM chapter 300 including the requirement that details beyond 120 days must be approved by the Commission. Please note that details of employees who are serving under veterans readjustment appointments to other positions must be approved by the Commission when they are not part of a documented training program."


Concerning the Controller-Director's first question, it was the intent of our Turner-Caldwell decision that an employee should receive backpay after serving on a detail for more than 120 days without approval of an extension from CSC, but only if the employee otherwise satisfied the requirements for a temporary promotion. In this connection we have held that an employee in the excepted service is not entitled to a retroactive temporary promotion without approval from CSC, since under its Rule 6.5 an excepted service employee may not be assigned to the work of a position in the competitive service without such approval. See Merle H. Morrow, B-192759, November 17, 1978, published at 58 Comp. Gen. 88. The CSC, on the other hand, has specifically provided in 5 C.F.R. § 307.106 that agencies may reassign, promote, or transfer an employee serving under a veterans readjustment appointment to any position for which he meets the qualification

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standards of the Commission, subject to compliance with that section and 5 C.F.R. § 307.103. In view of those regulations we agree with the opinion in the letter dated July 24, 1978, from CSC that prior CSC approval is unnecessary for the detail of a veterans readjustment appointee to a position in the competitive service as long as the detail is a part of the documented training program which such appointees are required to have. However, CSC approval is necessary if the detail is not part of a documented training program. Accordingly, our answer to question 1 is that if the detail of a veterans readjustment appointee is proper under the conditions stated above, such employee may receive a temporary promotion and backpay under our Turner-Caldwell decisions.

Our answer to question 2 is that we agree with CSC that General Schedule and wage system employees should be treated in a like manner.

Regarding question 3, as pointed out in the submission, "days" are defined in Chapter 210, Federal Personnel Manual (FPM), as calendar days, and not workdays, unless otherwise defined or limited. Also, Chapter 300, Subchapter 8, FPM, discusses the length of details in terms of days and does not mention workdays. Therefore, employees serving on an intermittent basis would be entitled to backpay on the 121st calendar day of an overlong detail, if otherwise qualified.

  
Deputy Comptroller General  
of the United States