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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-194080

MAR 23 1979

Ms. Carolyn A. Babich
16 Poppy Lane
Commack, New York 11725

Do not make available to public reading

Dear Ms. Babich:

Reference is made to your letter dated January 26, 1979, concerning difficulties you have experienced with your veteran's reemployment rights incident to your employment with Veterans Administration hospitals in Miami, Florida, and Northport, New York. You state that you sent your letter to our Office under the direction of the Civil Service Commission of the State of New York.

In your letter you indicate that you had been an employee of the Veterans Administration (VA) since July 1969, that you left the VA in May 1974 to join the Air Force for one tour of duty, and that, after your honorable discharge from the Air Force in June 1976, you decided to relocate to Florida and applied for a position with the Miami VA Hospital, where you were accepted as a staff nurse on August 15, 1976. In 1978, you resigned from your position in Miami, and obtained employment with the Northport VA Hospital.

You express dissatisfaction with your employment as a nurse with the VA hospital system and indicate that after your return from military service, your veteran's reemployment rights were violated, that you lost seniority because of your resignation, and that you would have been in a higher pay grade if you had not joined the military. You request our assistance in the matter.

Contrary to the information you say was provided you by the Civil Service Commission of the State of New York, this Office does not have jurisdiction over the entitlement of Government employees to reinstatement after military service. See 25 Comp. Gen. 852 (1946). In the first instance, the matter of your veteran's reemployment rights are for resolution by the Veterans Administration under chapter 43 of title 38, United States Code, relating to reemployment rights. (38 U.S.C. 2021-2026). Also, title 5 of the United States Code and implementing regulations provide that employees are entitled to protest their job classification, violations of promotion programs, and to file administrative appeals with the

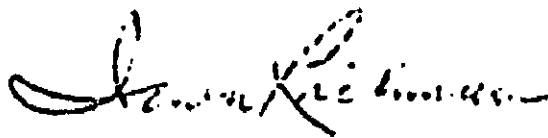


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Office of Personnel Management in the event the employing agency denies them relief.

We trust this will serve the purpose of your inquiry.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Irwin Richman".

Irwin Richman
Attorney-Adviser