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**DECISION**



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

10, 39

FILE: B-194122

DATE: June 5, 1979

MATTER OF: Joseph H. Nixon III - *[Claim For]* Retroactive Promotion

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DIGEST: Employee of Social Security Administration was recommended for promotion with recommended date of December 21, 1975. The approving official approved the promotion but with an effective date of January 4, 1976. Employee may not be retroactively promoted to December 21, 1975, since approving official had discretion to promote at any subsequent date.

Mr. Joseph H. Nixon III, an employee of the Department of Health, Education and Welfare's Social Security Administration (SSA), has appealed our Claims Division's denial of his claim for a retroactive promotion.

Mr. Nixon, a Hearings and Appeals Analyst in the Bureau of Hearings and Appeals (BHA), alleges that his promotion from the GS-12 to GS-13 grade was improperly delayed for 2 weeks due to an administrative error. He filed a grievance on the matter with his agency but it was denied.

The basis for Mr. Nixon's claim is that the "Request for Personnel Action" (SF-52) recommended his promotion with an effective date of December 21, 1975, and that all journal actions in the Personnel Office were completed on December 3, 1975, and the Executive Director of BHA initialed the SF-52 on the same date. He argues that the official vested with authority to promote had approved such promotion effective on December 21, 1975. He states that the effective date was later altered or changed and that delay of his promotion until January 4, 1976, was improper and constituted administrative error entitling him to a retroactive promotion with backpay.

It is the position of the Bureau of Hearings and Appeals, however, that the BHA Personnel Officer was the official with authority to appoint Mr. Nixon to the higher grade, and not any other official in BHA. In this regard the findings and recommendations of the Employee Appeals Examiner who heard Mr. Nixon's grievance is relied upon by management. The grievance examiner stated:

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"I find no evidence in this record that the BHA Personnel Officer \* \* \* intended that Mr. Nixon's promotion was to be made effective as of 12/21 \* \* \* thus, I find no 'administrative error' occurred. Therefore, the promotion may not be made retroactive to 12/21 \* \* \*."

It does appear to be true, as Mr. Nixon claims, that the Bureau Director approved the request for promotion with a proposed effective date of December 21, 1975. However, it is likewise true that the official with authority to promote was the Bureau's Personnel Officer, not the Bureau's Director. We find nothing to show that the Personnel Officer intended to make the promotion effective earlier than January 4, 1976.

The record submitted to us shows that the BHA Personnel Officer did not actually sign the approval of Mr. Nixon's position but rather another individual signed the applicable approval block on the SF-50, "Notification of Personnel Action," for the Personnel Officer. We assume, therefore, that the authority to approve promotions was properly delegated from the Personnel Officer to this individual or the promotion would not have been legally effectuated. In the absence of any evidence to the contrary, we find that the Notification of Personnel Action was properly executed.

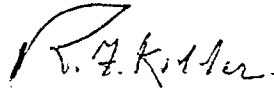
The effective date of a change of salary resulting from administrative action is the date of approval thereof by a proper administrative official, or such subsequent date as may be administratively fixed. 21 Comp. Gen. 95 (1971); 30 *id.* 156 (1950); B-133381, June 25, 1970. The promotion document (SF-50) shows that the Personnel Officer's designee approved Mr. Nixon's promotion on December 3, 1975, and that the effective date of the promotion which the designee approved was January 4, 1976. Accordingly, in the absence of a mandatory policy or agreement entitling him to promotion at an earlier date, we have no authority to grant Mr. Nixon a promotion prior to January 4, 1976, the duly approved date. The fact that other employees similarly situated were promoted on December 21, 1975, is not helpful to Mr. Nixon's claim as there was no requirement in any law, regulation, or labor-management agreement that Mr. Nixon be promoted at the same time as his fellow employees or indeed at any given time. Matter of William Wilder, B-192556,

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December 4, 1978. We also find no administrative error that would allow us to change the effective date of the promotion.

The decision cited by Mr. Nixon in support of his claim, B-160859, March 29, 1967, concerning step increases, is of no application to this case.

Mr. Nixon's claim is denied.



Deputy Comptroller General  
of the United States