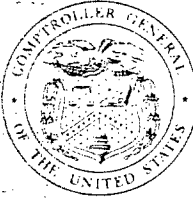


PLM II

DECISION



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

10,388

FILE: B-194125

DATE: June 6, 1979

MATTER OF: Ms. Valerie J. Goodwin

DIGEST: Where an employee performs duties of a position which are of a higher grade than the one he occupies, no right to increased pay exists for the performance of those duties unless and until the employee is officially appointed or detailed to that higher graded position. See United States v. Testan, 424 U.S. 392 (1976) and 56 Comp. Gen. 427 (1977).

This action is in response to a letter dated January 9, 1979, from Ms. Valerie J. Goodwin, an employee of the Department of Labor, concerning her entitlement to a retroactive temporary promotion and backpay incident to her employment during the period December 1976 to October 1978.

The matter of this claim was the subject of a settlement by our Claims Division dated July 11, 1978, which disallowed the claim on the basis that while Ms. Goodwin may have performed duties which would ordinarily be performed by an employee classified at a higher grade, she was not actually detailed to such higher grade position, citing to United States v. Testan, 424 U.S. 392 (1976) and our decision 56 Comp. Gen. 427 (1977).

Ms. Goodwin states that her assigned position was as a clerk-typist, GS-322-4, step 4. In December 1976, her immediate supervisor was reassigned from her position as a Management Officer, grade GS-12 to the position of Program Analyst also grade GS-12. As a result of this action, Ms. Goodwin contends that she was detailed to perform the duties of her former supervisor's position and that she performed all such duties from December 1976 until October 1978.

In United States v. Testan, supra, a case involving the issue of entitlement of an employee to backpay for errors in position classification levels, it was ruled in part that an employee is only entitled to the salary of the position to which appointed and that neither the Classification Act nor the Back Pay Act creates a substantive right in the employee to backpay for the period of any claimed wrongful classification.

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This is true even where an individual is occupying a position at one grade level and may be performing duties which would be performed by an employee classified at a higher grade.

While Ms. Goodwin claims that she was detailed to perform the duties of the higher graded position, there is nothing in the file to support such contention nor has she provided any such evidence from an official source.

In the absence of documentation showing that Ms. Goodwin was officially detailed to perform the duties of the higher graded position, there is no legal basis upon which her claim may be allowed.

Accordingly, the action taken by our Claims Division disallowing her claim, is sustained.


Deputy Comptroller General
of the United States