

Schurmer

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DECISION



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

FILE: B-197429

DATE: November 7, 1980

MATTER OF: Donald M. Johnson Request for
Within-Grade Increase

DIGEST: After a reduction in force a Meatcutter WG-8, rate 3 employee was reassigned to a Meatcutting Worker WG-5 position. Employee appealed the classification of the new position to the Civil Service Commission and the position was reclassified to a Meatcutter, WG-8 position, and the employee was promoted to WG-8, rate 4 more than 104 weeks after reaching grade WG-8 rate 3. The repromotion to his former position is not an equivalent increase since his earlier change to a lower grade was not for cause and was not at his own request. Employee is eligible for a WG-8 rate 5 position 104 weeks after the date he would have reached the WG-8 rate 4 position had it not been for the downgrading.

This decision is in response to an appeal by Donald M. Johnson, of our Claims Division settlement of November 2, 1979 (Z-2817778), denying his claim for a retroactive within-grade step increase. Mr. Johnson is represented by the National Association of Government Employees (NAGE) in this matter.

The issue presented is whether a repromotion is an equivalent increase for the purpose of determining an employee's eligibility date for advancement to the next rate step.

The pertinent facts are as follows. Mr. Johnson was employed by the Department of the Navy as a Meatcutter, WG-8, and he received a within-grade step increase to WG-8, rate 3, on July 6, 1975. On March 12, 1976, Mr. Johnson and other employees received reduction in force (RIF) notices informing them that they were to be downgraded to Meatcutting Worker, WG-5. The NAGE filed an appeal of the reduction in force on behalf of Mr. Johnson and the other employees to the

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Federal Employees Appeal Authority (FEAA) on March 18, 1976. On May 12, 1976, the RIF was instituted and Mr. Johnson became a WG-5, Meatcutting Worker but continued to receive his same pay under retained pay provisions. 5 U.S.C. § 5363 (1976). On November 30, 1976, the Chief Appeals Officer of the FEAA denied NAGE's appeal concerning the RIF. On August 11, 1977, the NAGE then filed a classification appeal with the Civil Service Commission (CSC) in which they contended that the job was wrongly classified as a Meatcutting Worker WG-5. On February 22, 1978, the CSC upheld the classification appeal and the job that Mr. Johnson was performing was classified as a Meatcutter, WG-8, effective October 9, 1977. On that date, Mr. Johnson was promoted to a Meatcutter WG-8, rate 4 position.

Two years later, on October 9, 1979, Mr. Johnson was promoted to a WG-8, rate 5 position. The NAGE claims that Mr. Johnson should have received the within-grade increase to the rate 5 position on July 3, 1979, since he should have been given a within-grade increase to a WG-8, rate 4 position on July 3, 1977, and because the downgrading of the position was reversed by the CSC.

The Department of the Navy denied the claim on the basis that Mr. Johnson's repromotion to a WG-8, rate 4 was an equivalent increase and therefore he was not eligible for a within-grade increase to rate 5 until October 9, 1979, 104 weeks after his repromotion. Our Claims Division also denied the claim on the same basis and because of our past decisions which held that where an employee is demoted and later repromoted to his former grade, a new waiting period for a step increase begins on the date of the repromotion. 57 Comp. Gen. 646 (1978); 43 Comp. Gen. 507 (1964); 43 Comp. Gen. 701 (1964).

However, the decisions cited by our Claims Division pertain to General Schedule employees and are not applicable here. Thus, we agree with the conclusion of the NAGE that Mr. Johnson should have been promoted to the WG-8 position, rate 5 on July 3, 1979, and not October 9, 1979, for the following reasons.

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The CSC has published regulations pertaining to within-grade increases for employees under the Federal Wage System in Federal Personnel Manual (FPM) Supplement 532-1, subchapter S8-5.

The FPM provisions provide that Wage Grade employees are automatically advanced to the next higher rate of their grade at the beginning of the first applicable pay period following completion of the required waiting period provided their work is satisfactory, and they have not received an equivalent increase in pay during their waiting period. FPM Supp. 532-1 S8-5a (1978). Mr. Johnson was promoted to a Grade WG-8, rate 4 position on October 9, 1977. The agency claims that this promotion is an equivalent increase and therefore the 2-year waiting period for an increase to Grade WG-8, rate 5 would not begin until this date. However, FPM Supp. 532-1, S8-5f(1) (1978) provides:

"f. Increases in pay not to be counted as an equivalent increase. (1) The following are not counted as equivalent increases--

* * * * *

"--Repromotion to a former or intervening grade of any employee whose earlier change to lower grade was not for cause and was not at the employee's request."

This provision is controlling because a reduction in grade incident to a reduction in force is neither for cause nor at the employee's request. Robert J. Hill, B-182230, October 3, 1975. Further, Mr. Johnson's Standard Form 50 is annotated to this effect.

Therefore, Mr. Johnson's repromotion was not an equivalent increase and the waiting period for his within-grade increase to rate 5 began 104 weeks after July 6, 1977. The decision of our Claims Division is overruled.

Harry R. Van Cleave
For the Comptroller General
of the United States