

DECISION



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

FILE: B-207866

DATE: July 27, 1982

MATTER OF: Marvin Buss - Claim for temporary promotion
incident to overlong detail

DIGEST: Employee's claim of entitlement to a retro-
active temporary promotion and backpay under
our Turner-Caldwell decisions due to several
allegedly overlong details must be denied
since we have recently ruled that we will
follow the decision of the Court of Claims
in Wilson v. United States Ct. Cl. No. 324-81C,
Order, October 23, 1981, holding that employ-
ees have no entitlement under statute or the
Federal Personnel Manual to temporary promo-
tions for overlong details.

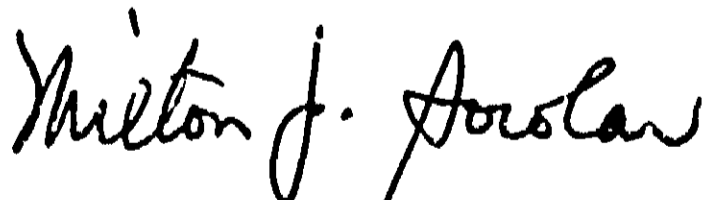
This decision is in response to an inquiry from
Representative Pat Roberts on behalf of his constituent,
Mr. Marvin Buss. Mr. Buss, an employee at the U.S. Army
Aviation Research and Development Command in St. Louis,
claims entitlement to a retroactive temporary promotion and
backpay due to several allegedly overlong details to the
position of Chief, Aircraft Systems Branch, Technical Man-
agement Division, Office of the Program Manager, Advanced
Attack Helicopter. Mr. Buss bases his claim on our deci-
sions in Turner-Caldwell, 55 Comp. Gen. 539 (1975) and
56 Comp. Gen. 427 (1972). Since we have recently decided to
follow the decision by the Court of Claims in Wilson v.
United States, Ct. Cl. No. 324-81C, Order, October 23, 1981,
which reaches the opposite result from our Turner-Caldwell
decisions, we hold that Mr. Buss' claim must be denied.
Turner-Caldwell III, B-203564, May 25, 1982. 61 Comp. Gen. _____
(1982).

Our Turner-Caldwell decisions held that employees who
were detailed to higher graded positions more than 120 days
without prior Civil Service Commission (now Office of Per-
sonnel Management (OPM)) approval were entitled to tem-
porary promotions beginning on the 121st day. We note that,
under Federal Personnel Manual Bulletin 300-48, effective
February 15, 1979, OPM delegated authority to agencies to
detail employees up to 240 days, instead of 120 days, with-
out prior OPM approval. In Wilson v. United States, above,
the Court of Claims held that neither the applicable statute

(5 U.S.C. § 3341), nor the Federal Personnel Manual authorizes a retroactive temporary promotion and backpay in cases involving overlong details. In Turner Caldwell III, supra., we reviewed the Wilson decision and decided to follow it with respect to all pending and future claims.

Even if we had decided not to follow Wilson it does not appear that Mr. Buss would be entitled to relief under our decisions. Although Mr. Buss discusses several details no single detail appears to have lasted the number of days necessary for the granting of a temporary promotion at the time that detail occurred. We have held that each period of detail is a separate detail, and that separate details may not be aggregated for the purpose of determining whether a detail exceeded the permissible length, and determining the date of entitlement to a retroactive promotion. Katie B. Keys, B-201946, June 16, 1981.

In addition, we would like to point out that although Mr. Buss submitted an agency regulation, AVRADCOM Reg. 690-6, concerning temporary promotions in cases of overlong details, that regulation provides no basis for allowing his claim. We have held that where an agency, either by its own regulation, or by the terms of a collective bargaining agreement, establishes a specified period after which it becomes mandatory to promote an employee detailed to higher graded position, that regulation or provision may provide the basis for backpay. See Albert C. Beachley and Robert S. Davis, B-200000, May 25, 1982; Albert W. Lurz, B-200005, June 18, 1982. The regulation here, AVRADCOM Reg. 690-6 is not such a regulation. It sets forth no nondiscretionary agency policy with regard to temporary promotions for details, rather, it merely outlines the holdings of our Turner-Caldwell decisions.

ja 
Comptroller General
of the United States