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

B-202156

~~Do not make available for public reading~~

September 3, 1981

The Honorable Don Edwards
House of Representatives

Dear Mr. Edwards:

This responds to your letter, with enclosures, of January 29, 1981, in which you requested that we review the material submitted by your constituent, Mr. Ralph A. Perrigo. We delayed our review of this matter until now at Mr. Perrigo's request in order to allow him to submit additional information. Mrs. Irene Webber of your San Jose District Office was advised of this delay.

After review of all the material submitted by Mr. Perrigo we must inform you that the matters raised by his letter to you are not matters over which the General Accounting Office has authority. However, we are providing the following information to assist you in responding to him.

Mr. Perrigo suggested in his letter to you which you forwarded to us that a labor relations specialist at the General Accounting Office could validate his charges of unfair labor practices by the Defense Logistics Agency. This Office does not have authority to investigate unfair labor practices. However, Mr. Perrigo's complaints do not involve matters normally considered unfair labor practices. See 5 U.S.C. 7116. Instead he is concerned with personnel matters involving grievances, classification, and promotion issues. All of these are matters which are within the jurisdiction of the Office of Personnel Management (OPM) and the Merit Systems Protection Board. It further appears that Mr. Perrigo has contacted both of these agencies but has been unable to provide them sufficient information or evidence for his complaints to be favorably considered.

Specifically Mr. Perrigo disagrees with the interpretation and implementation of OPM regulations regarding classification and grievances. We have been unable to detect any evidence of impropriety in the material he submitted. It appears that he disagrees with OPM's interpretation of certain regulations. For example, in his letter to you he states that "OPM has adopted an overly broad interpretation of the limits prescribed by Title 5, United States Code, 771.304, attachment 4." Attachment 4 submitted by Mr. Perrigo is from Title 5, Code

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of Federal Regulations, not the United States Code. Section 771.304 was issued by OPM and deals with its review of grievance systems. The primary responsibility for interpreting and administering a regulation falls to the agency or department which issued the regulation. In this instance since OPM's interpretation is reasonable we cannot agree with Mr. Perrigo's statement that OPM is incorrectly interpreting its own regulations.

At the heart of Mr. Perrigo's complaint is an allegation that his agency had prepared an erroneous statement concerning his position and failed to inform his supervisor of the statement. He feels that this prevented his filing a classification appeal and resulted in the loss of \$10,000 in salary.

The above statement suggests that Mr. Perrigo believes he was entitled to a higher grade for the duties he performed as a GS-12 supervisory industrial specialist. In the additional material Mr. Perrigo sent us (copy enclosed) he attempts to show that he technically supervised two engineers and that this technical as opposed to administrative supervision warranted classifying his position at GS-13 rather than GS-12. The record indicates that Mr. Perrigo did supervise two engineers, but there is a dispute as to the extent of that supervision since he was not himself an engineer. We note that Mr. Perrigo's GS-12 position was abolished in 1980 and replaced with a GS-13 supervisory engineer position.

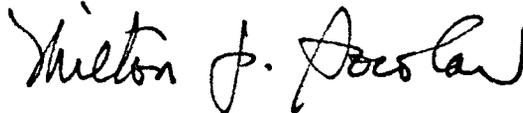
A Federal employee is entitled only to the salary of his appointed position regardless of the duties he performs. During the time Mr. Perrigo supervised two engineers, he made no attempt to show that his position was underclassified, and it is not at all clear that his agency's classification procedures interfered with his right to file a classification appeal. More to the point, it does not appear that he was deprived of higher pay for the duties he performed. Since he does not have an engineering degree, it is unlikely that he could have been promoted to a GS-13 supervisory engineering position even if he had been able to demonstrate, based on the nature of his supervision of two engineers, that reclassification to that level was warranted. A classification appeal would not have changed his position. For the same reason he would not be entitled to a retroactive adjustment in salary.

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With regard to Mr. Perrigo's failure to be considered for a position closer to his residence, we are uncertain how his position description prevented his accepting a position closer to his home. Presumably the position was that of a supervisory engineer. If this was the case, a classification appeal would not have corrected the educational defect in Mr. Perrigo's qualifications.

We hope this information will be of assistance.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Milton J. Poslan".

Acting Comptroller General
of the United States

Enclosure