



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

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B-178139

June 18, 1973

Mr. Jack Walker, Vice President  
American Federation of Government Employees  
Social Security Local No. 1395  
165 N. Canal Street  
Chicago, Illinois 60606

Dear Mr. Walker:

Reference is made to your letter of February 13, 1973, on behalf of three employees of the Social Security Administration, Bureau of Retirement and Survivors Insurance, Claims Authorization Branch, Chicago, Illinois, concerning their claims for additional pay incident to the failure of the agency concerned to process promotions for them immediately upon completion of one year's service.

According to your letter, these employees entered on duty with the Social Security Administration on August 23, 1970, as Claims Authorizer Trainees, grade GS-7, and were to receive career promotions to grade GS-9 after satisfactorily completing one year of service. You contend that since these employees completed one year of satisfactory service on August 22, 1971, their promotions to GS-9 should have been processed and made effective August 23, 1971. You question the action of the Department in delaying such promotions until September 5, 1971, the next full pay period following the completion of one full year. We note that the employees concerned were not promoted until October 17, 1971, and that their claims for retroactive pay from September 5, 1971, to October 17, 1971, were disallowed by settlements of the Transportation and Claims Division of this Office dated December 18, 1972.

It was administratively reported in connection with the consideration of the prior claims of these employees that the promotions in question were delayed pursuant to a Department of Health, Education, and Welfare (HEW) policy to maintain personnel matters in status quo for a temporary period. Such policy included the placement of a hold on promotion actions, including promotions to career ladder positions, and the suspension of hiring except in special cases. The reason for that policy was to allow time to assess the impact on HEW of the President's directives requiring each executive department and agency to

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reduce employment and to effect an average grade reduction. Also considered in connection therewith were the general wage and salary controls established pursuant to Executive Order 11615, dated August 15, 1971.

The original basis of the employees' claims for back pay for the period September 5 to October 17, 1971, was that the delay in their career-ladder promotions constituted an administrative error. In this connection, the granting of promotions from grade to grade is a discretionary matter primarily within the province of the administrative agency involved. See Tierney v. United States, 168 C. Cls. 77 (1964); Wienberg v. United States, 192 C. Cls. 24 (1970). This discretionary power extends to the granting of promotions to career-ladder positions. See paragraphs 4-2(a)(2) and 4-2(b)(2) of Subchapter 4, Federal Personnel Manual 335. Thus, an employee in a career-ladder program is not entitled to a promotion as a matter of right after the completion of the requisite period of time.

The effective date of the employees' promotions to grade GS-9 in the present case was October 17, 1971. It is a well established rule that promotions, absent evidence of an administrative or clerical error, may not be made retroactively effective. See 50 Comp. Gen. 850 (1971). Our Transportation and Claims Division, therefore, properly determined that October 17 was the controlling date as to the employees' entitlement to salary at the grade GS-9 level, there being no evidence presented of an administrative error in the selection of that date. See also B-168715, January 22, 1970, copy enclosed.

You cite as basis for the present claims item 13b of Exhibit X, HEW Personnel Manual 296-31-9, which states:

Personnel and administrative offices should make sure that the policy to make actions effective at beginning of pay period is understood, and that exception is made only for good reason.

You contend that good reasons existed for effecting the promotions of the claimants at a time other than at the beginning of a pay period. The reasons cited are that the employees had completed all criteria for promotion on a day prior to the first day of a pay period and began performing grade GS-9 level duties prior to the first day of a pay period.

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You state that even though good reasons existed to make the career promotions effective timely, all requests for corrective action have been denied by the agency.

In view of the determination with respect to the original claims, we fail to see how the administrative instruction cited could affect the entitlement of these employees to compensation for the period in question. We note, however, that item 13b of Exhibit X instructs personnel and administrative officers to make all personnel actions effective at the beginning of pay periods except for good reason. We have been informally advised by the Department that the purpose of the above instruction is to improve HEW's efficiency in the processing of personnel actions through its automatic data processing system. In view of the discretion agencies have in the matter of establishing effective dates for personnel actions and since item 13b was intended solely for the convenience of the Government, that instruction provides no basis for an employee's claim to increased pay. Any determination of what will constitute a good reason for making an exception to that provision is a matter of discretion on the part of the Department.

Since the actions of the agency in fixing September 5, 1971, as the date the claimants could be considered for promotion and in delaying promotions until October 17, 1971, were matters within the discretion of the agency, we are aware of no basis for allowing of retroactive pay to the three employees involved.

Accordingly, the settlement dated December 18, 1972, disallowing the employees' claims for back pay as the result of the delay in their promotions, must be sustained.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General  
of the United States

Enclosure

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Barbara Didion

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