



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Thomas L. Wild

File: B-240781

Date: February 5, 1991

DECISION

The issue here is what constitutes an administrative error so that an agency can grant an employee a retroactive within-grade increase.

On March 6, 1990, the Denver Regional Office, Occupational Safety and Health Administration (OSHA) submitted a Standard Form 52, Request for Personnel Action, effecting a Quality-Step Increase (QSI) for Thomas L. Wild. The request was submitted to the local Regional Personnel Office, Department of Labor, with a proposed effective date of March 25, 1990. Thus, Mr. Wild's QSI was approved effective that date.

The agency states that this action was in error since Mr. Wild's supervisor intended that the effective date of the QSI correspond with his next within-grade increase due April 22, 1990. If this had been done Mr. Wild would have received two step increases instead of one. Instead Mr. Wild received an increase to GS-12, step 7, on March 25, 1990, and is not entitled to an increase to step 8 until April 1991.

The Regional Administrator believes that the mistake constitutes an administrative error, and that there is no legal or regulatory prohibition against correcting the effective date on the personnel action. However, the Regional Personnel Office asserts that there was no administrative error since it processed the action as requested and it met all legal and regulatory requirements.

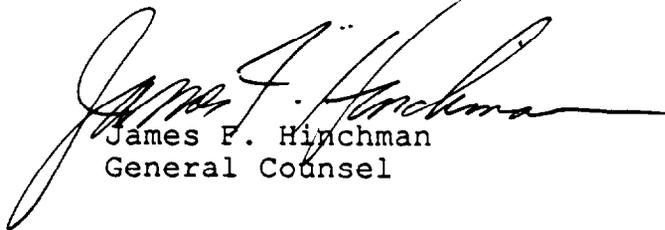
We agree with the Regional Personnel Office that the mistake made here does not constitute an administrative error that would justify a retroactive grant of an administrative step increase to Mr. Wild at this time. The effective date of a change in salary resulting from administrative action is the date action is taken by the administrative officer vested with necessary authority or a subsequent date specifically fixed by him. 21 Comp. Gen. 95 (1941).

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Thus, we held in Carolyn Whitlock, 58 Comp. Gen. 290 (1979), that an employee was not entitled to a retroactive QSI where the agency erroneously filed a supervisor's insufficiently documented recommendation of a QSI which caused a subsequent delay. The employee did not have a vested right pursuant to statute or regulation to a QSI until the appropriate agency official approved the recommendation. Thus, it could not be said that there was an unjustified or unwarranted personnel action. See also Richard S. McMains, B-239515, Sept. 20, 1990.

The Regional Personnel Office states that the Standard Form 52 pertaining to Mr. Wild was reviewed and timely processed in accordance with its guidance and instructions for completion of the form. The document contained a requested effective date of March 25, 1990, and was signed by the authorizing official. After the document was processed, Mr. Wild began to receive salary at the GS-12, step 7 level. Thus, it cannot be said that there was an unjustified or unwarranted personnel action since Mr. Wild's promotion to the next step of his grade was carried out as requested and approved. See Doris Brisset, B-207129, Aug. 26, 1982.

Accordingly, the agency may not retroactively correct the effective date of Mr. Wild's Quality-Step Increase.



James F. Hinchman
General Counsel