DIGEST – L – CP. 265

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

B-155632 – 1/25/65 which was not digested Modified

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AUG 6 - 1965

Dear Mr. Postmaster General:

The letter of the Acting Postmaster General dated June 11, 1965, asks that we reconsider our decision B-155632, January 25, 1965, wherein we concluded that under the language of the last substantive provision of section 711(c), Pub. L. 87-793, 76 Stat. 856, as quoted and underscored immediately below, the employee's protected salary rate is established as his basic compensation effective October 13, 1962, thus terminating his protected salary status.

The language of section 711(c) reads, in pertinent part, as follows:

> "(c) If the existing basic compensation of any employee subject to the Postal Field Service Schedule * * * is greater than the rate established by subsection (a) or (b) of this section, he shall be placed in the first step of such schedule which exceeds his existing basic compensation; if the existing basic compensation is greater than any numerical step, his existing basic compensation shall be established as his basic compensation." (Underscoring supplied.)

Our conclusion in that decision was predicated upon the language and legislative history of sections 711, 712, and 713 of Pub. L. 87-793, which we considered as showing an intent that the conversion under section 711, including 711(c), be applied to saved pay cases and that the phrase "his existing basic compensation shall be established as his basic compensation" should be viewed as terminating the saved pay. This we felt was consistent with the requirement in section 713 that postal employees in protected rates were not to receive the statutory increases provided by Pub. L. 87-793.

The Acting Postmaster's letter of June 11, 1965, however, shows that your agency's contemporaneous interpretation of section 713 was that it was to exclude application only of that feature of Pub. L. 87-270, 39 U.S.C. 3560 the saved pay statute--which pertained to the addition of statutory increases to the existing protected rates. He points out that it is the administrative view that the phrase "Subject to sections 711c and 712(2)" in section 713 had reference only to the possibility that some persons in a protected status, as of

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the date of conversion, would receive increases when changed to an established step in the new schedules, and thereby lose their protected status. We assume that, consistent with the administrative interpretation above, employees with protected rates in which no increase in the saved pay rate occurred by operation of section 711, or otherwise, were continued in a protected pay status, subject to later adjustment in accordance with the terms of 39 U.S.C. 3560.

Upon reconsideration of the matter, we now hold that the administrative interpretation of the statutory provisions is not so clearly inconsistent with the language thereof as to require us to adhere to the conclusion reached in the Parsons case that the saved pay terminated even though no increase in the saved pay rate occurred as the result of Pub. L. 87-793. In that regard, particular weight has been given to the fact that the provisions of sections 711, 712, and 713 contain no specific language to the effect that saved pay terminated in such cases, and, that therefore, your Department will continue to look to the terms of the saved pay statute itself, 39 U.S.C. 3560, to determine when the termination of saved pay will be effective. The Parsons case, B-155632, January 25, 1965, is so modified.

Sincerely yours,
FRANK H. WEITZEL

Acting Comptroller General
of the United States

The Honorable
The Postmaster General