

DECISION



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

FILE: B-181107

DATE: JUL 31 1974

MATTER OF:

Claim for retroactive pay incident to job-grading appeal under Coordinated Federal Wage System

DIGEST:

Navy prevailing rate employee's claim for retroactive pay at rates higher than those established upon initial conversion to Coordinated Federal Wage System in 1968 and after favorable action on job-grading appeal in 1970 was properly denied, even though his pay would have been higher without appeal, since pay rate and its effective date were properly fixed in accordance with regulation, the Comptroller General has no jurisdiction because the administrative agencies and Civil Service Commission have final authority to classify positions and to consider appeals, and in the absence of a statute pay rate changes may not be made retroactively.

This decision is in response to a request for reconsideration of our Transportation and Claims Division settlement of May 8, 1973, disallowing the claim of Mr. [redacted], a former prevailing rate supervisory employee of the Department of the Navy, for additional compensation alleged to be due from December 15, 1968, to June 30, 1972.

The record indicates that by letter dated August 18, 1970, Mr. [redacted], a Toolmaker General Foreman, appealed the grade of his position, WS-14, step 4, \$7.10 per hour, stating that he believed it to be an error and that his pay grade should have been WS-15, step 4, since December 15, 1968, when his position was converted to the Coordinated Federal Wage System (CFWS). By application of the new Civil Service Commission Job Grading Standard for Supervisors received during the pendency of this appeal, it was determined by the Navy Department's Office of Civilian Manpower Management (OCCM) on October 22, 1970, that Mr. [redacted] position should be graded at the WS-15 level, effective as of the first pay period after October 17, 1970. However, OCCM held that he was not entitled to retroactive pay from December 15, 1968. Mr. [redacted] pay rate was then set at step 3 of WS-15, \$7.10, effective October 18, 1970.

In his request for reconsideration, Mr. [redacted] contends that in denying his entitlement to retroactive pay, the Navy in fact denied his appeal and that either he should be allowed to retroactively withdraw his appeal application, or that the entire appeal action be nullified. He

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indicates that had his appeal been denied and had he continued at the WS-14 level until December 1970, he would have received a within-grade increase to step 5 of that level and would have been subsequently placed in step 5 of WS-15 in January 1971 at a rate of \$8.42 per hour which would have been a higher pay rate than he actually received when the activity applied the new job-grading standard for supervisors. He also contends that his annuity on retirement would have been higher but for the appeal action which denied a retroactive pay increase.

Subchapter 87-3a(3), Federal Personnel Manual (FPM) Supplement 532-1 provides as follows concerning appeals of pay rates under CFWS:

"(3) When a final decision upholds the employee's application, the effective date for the change in the grade may not be later than the beginning of the first pay period which begins after the 60th day from the date the application was filed."

Subchapter 810-3a(2), FPM Supplement 532-1 provides the following concerning the initial application of job-grading system and standards during the total conversion period to CFWS to an employee's pay rate.

"(2) If his existing rate is within the rate range for his new grade, he is paid at his existing rate if this is one of the rates of his new grade; otherwise, he is paid that rate of his new grade which is next above his existing rate of pay."

At the time of Mr. [redacted] appeal decision the rate for step 3, WS-15, was the same as that for his rate of step 4, WS-14, \$7.10 per hour. The pay rate and its effective date were set in accordance with the cited regulations. Mr. [redacted] subsequently appealed the Navy decision to the San Francisco Region of the Civil Service Commission. The regional office advised Mr. [redacted] that the Navy actions were in accord with Commission regulations and did not accept his appeal. Accordingly, there is no basis upon which to disagree with the Navy determination.

Moreover, it is not within the jurisdiction of our Office to set aside a job-grading appeal which was prosecuted to a favorable conclusion and which was made effective in accordance with prescribed CFWS procedures since the authority to classify positions for prevailing rate employees is vested in administrative agencies and in the Civil Service Commission

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under 5 U.S.C. 5345 (now 5346). Therefore, notwithstanding the Navy action may have resulted in Mr. not receiving the additional pay he believes he was entitled to, we may not set aside the Navy appeal decision.

In any event, the general rule is that in the absence of a controlling statute providing otherwise, any increases or decreases in compensation may not be made retroactively effective and that when a position is reclassified to a higher grade as a result of an appeal to the Civil Service Commission, there is no authority to pay the higher salary rate retroactively. See 24 Comp. Gen. 676 (1945); 27 id. 649 (1948); 39 id. 583 (1960); 40 id. 212 (1960); and 52 id. 631 (1973).

In view of the above, the settlement action disallowing this claim must be sustained.

R. F. KELLES

Deputy]

Comptroller General
of the United States