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**DECISION**



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

**FILE:** B-191128

**DATE:** July 24, 1978

**MATTER OF:** James F. Ford - Detail to higher grade position

**DIGEST:** Employee, who was successively detailed to two higher grade positions, can only be awarded retroactive temporary promotion and backpay for details extending more than 120 days, each detail being treated as separate and distinct personnel action.

This decision is rendered in response to a request for an advance decision by Mr. Phillip M. Hudson, Jr., an authorized certifying officer, Maritime Administration, Department of Commerce, concerning the claim of Mr. James F. Ford, an agency employee, for a retroactive temporary promotion and accompanying backpay for the period from July 15, 1976, to September 15, 1976. Although Mr. Ford's claim covers only the stated period, the certifying officer states that Mr. Ford performed higher grade duties for an additional period from April 15, 1975, to July 17, 1976, and was accordingly, paid backpay for this additional period.

The record shows Mr. Ford was promoted to the position of Trial Attorney grade GS-14 on March 3, 1974. On December 12, 1974, the General Counsel issued a memorandum to all employees of his office in which he stated the following:

"Effective December 16, 1974, J. Frank Ford is detailed to the Division of Legislation and Regulations \* \* \* where he will serve as Acting Assistant General Counsel."

The Assistant General Counsel position to which Mr. Ford was detailed was classified as a grade GS-15 position. Mr. Ford remained in this "acting" capacity through July 17, 1976, at which time he was detailed to the position of Supervisory Attorney-Adviser, a grade GS-15 position, in the Division of Litigation effective July 18, 1976, with the notation that the detail was not to exceed 60 days (September 15, 1976). Mr. Ford was paid backpay for the period April 15, 1975, the 121st day after Mr. Ford's first detail began, through July 17, 1976, the last day of the first detail. The certifying officer based this determination on our decisions in Matter of Everett Turner and David L. Caldwell, 55 Comp. Gen. 539 (1975), and Matter of Reconsideration of Everett Turner and David L. Caldwell, 56 Comp. Gen. 427 (1977).

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In Turner-Caldwell, we held that employees detailed to higher grade positions for more than 120 days, without Civil Service Commission approval, are entitled to retroactive temporary promotions with backpay for the period beginning with the 121st day of the detail until the detail is terminated.

Mr. Ford's second detail, immediately following his first detail, to the position of Supervisory Attorney-Adviser, at the same grade as the first detail of grade GS-15, was for the period of July 18, 1976, through September 15, 1976, a period of less than 120 days. Since Turner-Caldwell provided that a retroactive temporary promotion and backpay could only be awarded for details extending more than 120 days, we cannot make such an award for this second detail, even though no break in grade GS-15 service occurred. Each of the details must be treated as a separate and distinct personnel action. Therefore, only those details which lasted more than 120 days, without counting time spent on other details, can qualify for the retroactive promotion with backpay provided by Turner-Caldwell.

The claim, therefore, may not be allowed.

  
Deputy Comptroller General  
of the United States