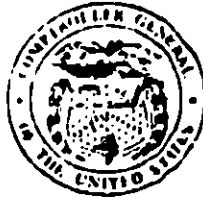


DECISION



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

*C. Remy, 11/11/78*

8273

FILE: B-192099

DATE: November 8, 1978

MATTER OF: Edward M. Scott - Detail to higher  
graded position

DIGEST: Employee claims he was detailed to GS-14 "audit manager" position from February 8, 1973, through September 30, 1975. Agency argues that "audit manager" title is an informal organizational title and, as such, is not an established position classified under an occupational standard to a particular grade or pay level as required by CSC Bulletin No. 300-40, May 25, 1977. Evidence on record, CSC's Handbook of Occupational Groups and Series of Classes and Position Classification Standards support agency view. Furthermore, evidence submitted does not support claim that employee was detailed to a higher graded position.

This action is at the request of Mr. Edward M. Scott for reconsideration of an administrative denial of his request for a retroactive temporary promotion and back pay for an extended detail to a higher grade position.

Mr. Scott is a GS-13 Supervisory General Accounting Office (GAO) Auditor who alleges that he was detailed to a GS-14 "Audit Manager" position from February 8, 1973, through September 30, 1975. Although he has no written record of the detail, he states that he believes that notice of his detail was confirmed in either the agency newsletter or by a memorandum to all personnel. In lieu of any official notice of the detail, Mr. Scott has submitted documents which he believes will prove that he occupied the position as alleged. It is argued that:

"At the time of this temporary assignment, the Position Descriptions for the GS-13 and GS-14 positions were incredibly similar.\* \* \* However, there were some very clear differences. For instance, only the GS-14 was formally referred

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to by the title of audit manager. Further, he/she supervised and directed the conduct of 'normally three or more' concurrent comprehensive site audits or reviews, some of which were of major or unusual scope and complexity. The GS-13 supervised 'one or more' such audits or reviews. The GS-14 also worked directly under the supervision of the Regional Manager or Assistant Regional Manager, who was either a GS-15 or GS-16. Finally, the GS-14 also had input into the overall planning of the surveys, reviews, and comprehensive and site audits for which he was responsible."

In furtherance of this argument, he presents various memoranda and letters from sources within and outside of the GAO which refer to him by the title "audit manager."

The agency response to Mr. Scott's presentation was as follows:

"During the period cited--February 8, 1973, to September 30, 1975--the correct title of a GS-13 or a GS-14 (510 series) in the field was 'Supervisory Auditor.' The term 'Audit Manager' was an unofficial, informal title used widely both in the field and in Washington. It was commonly used with reference to a grade 14. But actually it applied to concurrent--and usually off site--management of two or more assignments, irrespective of grade.

"The position description for a GS-13 (510) supervisory auditor for the period in question stated, in part, that the incumbent "supervises one or more\*\*\* reviews of unusual scope and complexity \* \* \*." No where did the position description place a limit on the number of jobs the GS-13 might manage concurrently; however, examples cited of a GS-13's typical workload illustrated that the GS-13 often was expected to manage at least 2 concurrent assignments. Elsewhere the position description made it clear that a GS-13 was fully responsible for all aspects of his assignments - including concurrently supervising separate audit groups (teams). Persons supervised were normally grades GS-7 through GS-12 but the position description specifically permitted the

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incumbent to 'direct' the work of another GS-13. Therefore, it seems clear that the fact of concurrently managing more than one assignment and the use of an unofficial title--alone--would not sustain a claim for temporary (retroactive) promotion.

"Comparison of the position descriptions of a GS-13 and GS-14 during the same period reveals one similarity. Both were expected to manage concurrent assignments - with the GS-14 normally managing a greater number ('normally three or more'). But the number of assignments is only one measure. Depending on assignment complexity, a GS-14 (or a GS-13) might handle more than 3 concurrent assignments. Conversely, given a sufficiently demanding objective - with unusual work scope and complexity - a GS-14 might be assigned only one assignment. It follows that judgments as to the combined demands and complexities of a supervisory auditor's entire workload at a given time would determine the number of concurrent assignments not necessarily the grade of an auditor."

We have held that employees who are 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 details until the details are terminated. Matter of Everett Turner and David L. Caldwell, 55 Comp. Gen. 539 (1975) and Reconsideration of Everett Turner and David L. Caldwell, 56 Comp. Gen. 427 (1977). Federal Personnel Manual (FPM) Bulletin No. 300-40, May 25, 1977, was issued by the Civil Service Commission in order to provide additional information to assist agencies in the proper application of these decisions.

Paragraph 4 of the FPM Bulletin defines a detail as follows:

"A detail is the temporary assignment of an employee to a different position within the same agency for a brief, specified period, with the employee returning to regular duties at the end of the detail. For purposes of this decision, the position must be an established one, classified under an occupational standard to a grade or pay level." (Emphasis in original.)

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The following guidelines with respect to documenting a detail are provided in FPM Bulletin No. 300-40, at para. 8.F:

"Acceptable documentation to substantiate a detail.  
GAO regulations provide that claims are to be 'settled on a basis of facts as established by the Government agency concerned and by evidence submitted by the claimant' (4 C.F.R. 31.7).

"Commission instructions require agencies to record details in excess of 30 calendar days on SF 52 or other appropriate form and to file it on the permanent side of the employee's Official Personnel Folder (FPM Supplement 296-31, Book II, Subchapter 53-13). While in the case GAO decided, this type of proof was not in the Official Personnel Folder, evidence in the form of agency memoranda reflecting the assignment was considered acceptable documentation. In addition, the personnel officer or that official's superior may certify in writing that reliable sources verify that the duties claimed were performed.

"In the absence of the above documentation the employee may provide other acceptable proof including:

- copies of Standard Forms 50 or 52, or official memoranda of assignment from the employee's possession,
- a written statement from the person who supervised the employee during the period in question, or other management official familiar with the work, certifying that to his or her personal knowledge the employee performed the duties of the particular established, classified position for the period claimed, or
- a decision under established grievance procedures."

Mr. Scott's claim must be tested against the above-quoted criteria.

With respect to the first criterion, a search of agency records reveals no evidence indicating that

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Mr. Scott was ever formally detailed to a higher graded position by means of an SF-50 or 52. However, as noted above, Mr. Scott states that he has no written record of his alleged detail and has presented as evidence of the detail various memoranda addressed to him by name, followed by the term "audit manager." Mr. Scott argues that the term "audit manager" refers to an established position, classified under an occupational standard to a grade or pay level, as required by FPM Bulletin No. 300-40, supra. We have reviewed such evidence and have considered the application of the second criterion to his claim.

We have studied the Civil Service Commission's Handbook of Occupational Groups and Series of Classes, July 1958 ed., and Position Classification Standards, June 1965, in an effort to determine whether a position titled "audit manager" has been classified under an occupational standard to a particular grade or level. Neither of the above-mentioned publications contain any reference to the term "audit manager." Further, under the GS-510 Accounting series standard, "Part II Audit," the only authorized titles set forth in the Commission's Position Classification Standards are "Auditor" and "Supervisory Auditor." Thus, it appears that the term "audit manager" is not an authorized title under the Commission's Position Classification Standards. Also, we are not aware of any internal organizational chart designating certain identifiable positions by the title "audit manager." Thus, as stated by the agency, the term "audit manager" was an informal organizational title, and, as such, it has never been classified to a particular grade level. It follows that the evidence submitted by Mr. Scott does not show that he was detailed to a different position that had been classified under an occupational standard to a grade level as required by paragraph 4 of FPM Bulletin No. 300-40.

With regard to the second criterion set forth in paragraph 8.F of FPM Bulletin No. 300-40, Mr. Scott has submitted a written statement from one of his supervisors during the claimed period concerning the question whether Mr. Scott performed the duties of a higher graded position. In addition, we have obtained statements from the remaining two supervisors of Mr. Scott during the subject period. None of the statements can be construed so as to support Mr. Scott's claim.

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Paragraph 8.F of FPM Bulletin No. 300-40 also states that a decision under established grievance procedures may be used as evidence of a detail. In 1975 Mr. Scott filed an informal grievance on this matter requesting backpay for an alleged detail to an "audit manager" position for a period of approximately 2 1/2 years. The grievance was filed by Mr. Scott's memorandum of June 26, 1975, under the provisions of Comptroller General's Order (CGO) 1.27 (November 19, 1971). By memorandum of July 23, 1975, Mr. Scott's division director rendered a decision on the grievance which was not in Mr. Scott's favor.

Mr. Scott responded to the denial by letter of July 25, 1975, in which he attempted to rebut the facts presented by the division director. Mr. Scott stated in that letter that he was appealing the division director's decision to the Civil Service Commission. There is no indication in the record as to whether the matter was appealed to the Civil Service Commission or, if it was, what the disposition was. Moreover, the record does not show that the matter was pursued under agency grievance procedures and the grievance apparently was terminated pursuant to paragraph 23 of CGO 1.27.

Thus, there is no grievance decision showing that Mr. Scott was detailed to a higher graded position. In this connection his rebuttal letter of July 25, 1975, contains a statement that clearly indicates that he understood that he had not been detailed. That passage is as follows:

"Being detailed has the certain connotation of acting, temporarily, in a certain capacity for a short period. I was not detailed to be an audit manager. I was an audit manager, in fact (de facto) for 2 1/2 years \* \* \* ." (Emphasis in original.)

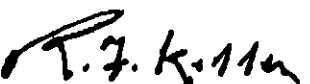
The situation described by Mr. Scott in the above statement is one of an accretion of duties, that is, a classification matter. In this connection paragraph 4 of FPM Bulletin No. 300-40 reads in pertinent part:

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"\* \* \* the Supreme Court recently ruled in United States v. Testan that classification actions upgrading a position may not be made retroactive so as to entitle an incumbent to backpay. Care must be taken to distinguish between employee claims based on details to higher graded positions, and to claims based on a classification action; only the former may be considered for retroactive correction under the [Comptroller General] decision."

While an employee may have performed the duties of a higher graded position, unless there has been an actual detail to a separate, identifiable position, he is not entitled to backpay under the Turner-Caldwell decision. See Matter of Patrick J. Fleming, B-191413, May 22, 1978 and September 19, 1978. Also, if the employee is performing higher graded duties and no detail can be established, the employee is entitled only to the salary of the position to which he has actually been appointed until his position is reclassified. Matter of Patrick L. Peters, B-189663, November 23, 1977. In such case, the employee's proper course of action is an appeal of the position classification to the Civil Service Commission under 5 C.F.R. Part 511, Subpart F.

Accordingly, on the basis of the record before us, it is our view that Mr. Scott has failed to meet the burden of proof necessary to prove his allegation of a detail to a higher graded position. His claim, therefore, must be denied.

  
Deputy Comptroller General  
of the United States