

PLM-1

**DECISION**



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

10,641

FILE: B-194220

DATE: June 28, 1979

MATTER OF: Ray V. Pyle - [Claim for Retroactive Backpay  
Incident to Extended Detail]

**DIGEST:** Employee, who was detailed to higher graded position for period of 10 months, was denied promotion to that position on ground that he was not suitable for position. He is not entitled to retroactive temporary promotion for extended detail although he was found fit for duty. Since higher graded position was designated sensitive, employee was required to have security clearance for promotion and he did not have requisite clearance.

This decision responds to the appeal by Mr. Ray V. Pyle of our Claims Division settlement denying his claim for a retroactive temporary promotion based upon an extended detail to a higher graded position. The issue presented for our decision is whether Mr. Pyle is entitled to additional compensation where the agency determined he was not qualified for promotion to the higher graded position.

The facts in this case, as drawn from the record before us, are as follows. Mr. Pyle was employed by the General Services Administration (GSA) as a Federal Protective Officer, grade GS-5, and he was detailed to the position of Criminal Investigator, grade GS-7, for the period from September 18, 1972, to July 17, 1973. During this time Mr. Pyle applied for promotion to the position of Criminal Investigator. The agency, in considering Mr. Pyle for promotion, raised a question concerning his suitability for the higher graded position. This resulted in Mr. Pyle undergoing a psychiatric examination. Although Mr. Pyle was found fit for duty, he was never found to be suitable for the position of Criminal Investigator, and he never received the security clearance necessary for promotion to the higher graded position.

The agency and our Claims Division have denied Mr. Pyle's claim for a retroactive temporary promotion while detailed to the higher graded position on the ground that he was not qualified for promotion to that position. Mr. Pyle argues on appeal that he was qualified for the higher graded position, and he has submitted additional documents to support his contention.

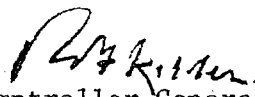
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Our Office has held that where an employee is detailed to a higher graded position and the agency fails to seek Civil Service Commission approval to extend the detail for a period beyond 120 days, the agency must award the employee a retroactive temporary promotion and backpay if he continues to perform those higher graded duties. Turner-Caldwell, 55 Comp. Gen. 539 (1975), affirmed at 56 id. 427 (1977). However, in order to be retroactively promoted, the employee must satisfy all statutory and regulatory requirements for promotion to the higher graded position. Turner-Caldwell, supra; Samuel R. Sappo, B-191959, October 20, 1978; and Civil Service Commission Bulletin No. 300-40, dated May 25, 1977.

Where an agency has designated a position as sensitive, the person filling or occupying that position must undergo a full field investigation and receive an appropriate security clearance. See section 3(b) of Executive Order No. 10450, April 27, 1953, as amended. The record before us indicates that the position of Criminal Investigator was subject to "Critical Sensitive Clearance" and that Mr. Pyle did not possess the requisite security clearance necessary for promotion to that position. In the absence of the necessary security clearance, Mr. Pyle would not be eligible for promotion to this higher graded position and, therefore, would not be entitled to a retroactive temporary promotion under our Turner-Caldwell decisions, cited above.

Accordingly, we sustain our Claims Division denial of Mr. Pyle's claim.

  
Acting Comptroller General  
of the United States