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DECISION



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

FILE: B-194694

DATE: November 23, 1979

MATTER OF: Charles E. Reardon, Jr. - [Claim for Backpay for Detail to Higher Graded Position]

- DIGEST:**
1. Employee is not entitled to retroactive temporary promotion and backpay where record indicates he was not detailed to established position classified under occupational standard to higher grade. Employee merely assumed some duties of position as outlined in his Position Description.
 2. Employee must satisfy qualification requirements for temporary promotion and backpay. Therefore, employee, who did not have college degree, did not qualify for temporary promotion to Professional Engineer position under CSC regulations.

Mr. Charles E. Reardon, Jr., has requested reconsideration of our Claims Division Settlement Certificate Z-2805788 of December 19, 1978, which denied his claim for a retroactive temporary promotion and backpay.

Mr. Reardon was employed as a GS-11 Engineering Technician, at the Portsmouth Naval Shipyard, Portsmouth, New Hampshire, until his retirement. He claims that he was detailed to a higher grade GS-12, General Engineer, position from April 1, 1973, to June 8, 1977. His claim is based on the rationale of our Turner-Caldwell decisions, 55 Comp. Gen. 539 (1975), 56 Comp Gen. 427 (1977). We held therein that employees detailed to higher grade positions for more than 120 days, without Civil Service Commission (CSC) (now Office of Personnel Management) approval, are entitled to retroactive temporary promotions with backpay from the 121st day of the details until they are terminated. Mr. Reardon's claim was denied by the Department of the Navy on the grounds that Mr. Reardon was never detailed to the higher grade GS-12 position, nor did he perform the duties of that position. Our Claims Division agreed with the agency's determination. We also agree.

Mr. Reardon, in support of his claim, has furnished a copy of the position classification for a GS-12, General Engineer. Mr. Reardon has also furnished copies of an outstanding

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performance rating which indicates that he has been performing the duties of Project Engineer. In addition, he has furnished copies of memoranda and a copy of a directory which listed him as a Project Manager.

We do not believe that Turner-Caldwell is applicable in this case because the record does not indicate that Mr. Reardon was actually detailed to a higher graded position. We have held that a detail involves an established position classified under an occupational standard to a particular grade or pay level. Glenn E. Silvey, B-192642, March 1, 1979. The record seems to indicate that, although Mr. Reardon performed some supervisory duties of a Project Engineer in his capacity as a GS-11, Engineering Technician, he was not detailed to an established position classified under an occupational standard to a higher grade or pay level. In fact, the Position Description for Mr. Reardon's position states that he must be capable of assuming the duties of the Project Engineer and act in that capacity, when so directed, or when the latter is absent from the Shipyard. Thus, Mr. Reardon was acting within the confines of the position to which he was appointed. Further, the title of "Project Manager" appears to be a functional title rather than a position classification title, and as such, does not carry with it any particular grade. Sanford M. Altschul, B-192433, December 4, 1978.

Mr. Reardon also states that he asked on several occasions to be transferred or released from performing the additional duties and was denied. As was previously stated, Mr. Reardon's Position Description provided that the employee would perform the additional duties. Thus, Mr. Reardon is, in effect, protesting the proper classification of the position. Complaints regarding the classification of a position are generally for resolution by the employee's agency and the Office of Personnel Management. See 5 C.F.R. § 5101 et seq. (1976) and title 5, Part 511, Code of Federal Regulations (1978). Also, we are precluded from awarding backpay for the period in which an employee served in a position which was erroneously classified. United States v. Testan, 424 U.S. 392 (1976); Helen Mansfield, B-192765, May 9, 1979.

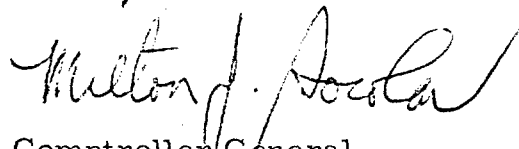
It is also necessary that an employee satisfy the requirements for a temporary promotion before remedial action concerning

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retroactive temporary promotions with backpay can be granted. The Civil Service Commission issued instructions implementing our Turner-Caldwell decisions in CSC Bulletin 300-40, dated May 25, 1977. In paragraph 8c of the Bulletin, the CSC emphasized that an employee has to satisfy both statutory requirements and the CSC's regulatory requirements in order to be promoted. It listed examples of requirements that are applicable, including the minimum CSC qualification standards for competitive positions as set forth in CSC Handbook X-118C.

The CSC's minimum requirement for all professional engineering positions at all grades require completion of 4 years of college with an emphasis on engineering, or an equivalent alternate degree. The agency states that Mr. Reardon did not meet this requirement and Mr. Reardon agrees. Thus, Mr. Reardon did not meet a legal requirement for promotion established by CSC regulations. He would, therefore, not be qualified for the higher grade position. Samuel R. Sappo, B-191959, October 20, 1978.

Accordingly, the disallowance of Mr. Reardon's claim by our Claims Division is sustained.



For the Comptroller General
of the United States