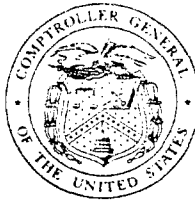


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Bureau

DECISION



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

FILE: B-195685

DATE: December 5, 1979

MATTER OF: Fred E. Tallent

DIGEST: Employee of the General Services Administration appeals action of Claims Division which denied his claim for a retroactive temporary promotion from GS-11 to GS-12 on the grounds of insufficient evidence of a detail. Record shows that for period between September 9, 1976, and October 13, 1977, employee met requirements of para. 8.F of FPM Bulletin 300-40, May 25, 1977, which sets forth criteria for documenting a detail. Certificate of Settlement modified in part.

This decision results from the appeal of Certificate of Settlement No. Z-2800429, issued by our Claims Division on June 29, 1979. In its action the Claims Division denied the request of Fred E. Tallent for a retroactive promotion and backpay.

[CLAIM for

Mr. Tallent is an employee of the Construction Management Division of the General Services Administration (GSA) in Chicago, Illinois. The record shows that he filed a claim with GSA on June 25, 1976, for a retroactive temporary promotion from grade GS-11 to GS-12 for the period November 18, 1974, until June 25, 1976, based on our decision Turner-Caldwell 55 Comp. Gen. 539 (1975), affirmed 56 id. 427 (1977). Subsequently he amended his claim to include the period between June 25, 1976, and July 15, 1978. On October 23, 1978, GSA determined that Mr. Tallent, a GS-11 Construction Representative, had been detailed to a GS-12 position from September 8, 1976, through October 13, 1977. He was temporarily promoted on the 121st day after September 8, 1976, and awarded backpay in the amount of \$1,126.88.

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Mr. Tallent by a letter dated November 7, 1978, requested that the Claims Division review that portion of his claim which was administratively disallowed by GSA. In its action of June 29, 1979, the Claims Division concluded that there was

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insufficient evidence to show that Mr. Tallent had been detailed, and, therefore, determined that he was not eligible for a retroactive temporary promotion at any time during the period of his claim. The Claims Division, however, referred the matter of the overpayment of \$1,126.88 to GSA for waiver under the provisions of 5 U.S.C. 5584 (1976).

In decision Edward M. Scott, B-192099, November 8, 1978, the criteria or guidelines for documenting a detail found at paragraph 8.F of Federal Personnel Manual Bulletin No. 300-40, May 25, 1977, were stated as follows:

"Acceptable documentation to substantiate a detail. GAO regulations provide that claims are to be 'settled on the 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 S3-13). 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

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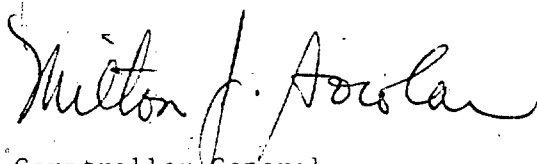
the employee performed the duties of the particular established, classified position for the period claimed, or

" a decision under established grievance procedures."

The administrative report provided by GSA contains a statement signed on April 25, 1978, by Mr. Tallent's supervisor who was Chief, Project Operations Branch, indicating that Mr. Tallent had performed the duties of a Construction Management Engineer (GS-12). In addition, Mr. Tallent's supervisor and the Acting Director of the Construction Management Branch in separate statements dated May 30, 1978, have indicated that Mr. Tallent performed these duties from September 8, 1976, until October 13, 1977.

Since a written statement by an employee's supervisor meets the requirements of para. 8.F, FPM Bulletin 300-40, the action taken by GSA in retroactively temporarily promoting Mr. Tallent from the 121st day after September 8, 1976, until October 13, 1977, was correct. Accordingly, the settlement issued by the Claims Division on June 29, 1979, is modified to the extent it is inconsistent with the above, and the action of GSA granting Mr. Tallent a retroactive temporary promotion is sustained. In light of the above, the matter of a waiver referral for an overpayment is moot.

With regard to Mr. Tallent's contention that he was detailed for a longer period of time, specifically from November 18, 1974, until July 15, 1978, it appears that he relies upon the statements or affidavits of his supervisor and others to support this claim. However, as has been indicated, Mr. Tallent's supervisor stated that the detail began on September 8, 1976, and terminated on October 13, 1977. It is the responsibility of a person asserting a claim for a retroactive promotion as a result of an overlong detail to prove all elements of the claim. John R. Figard, B-181700, January 18, 1978; Richard M. Bartol, B-193618, May 9, 1979. The evidence relied upon by Mr. Tallent does not show that he is entitled to a retroactive temporary promotion for the periods of time before or after the period set forth above.



For the Comptroller General
of the United States