



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Lee R. Schneider - Claim for Temporary Promotion
and Backpay
File: B-233131
Date: June 22, 1989

DIGEST

Employee's claim for a retroactive temporary promotion and backpay incident to an overlong detail is denied pursuant to Turner-Caldwell III, 61 Comp. Gen. 408 (1982). An exception to the Turner-Caldwell III rule exists where a collective bargaining agreement prescribes temporary promotions in the case of overlong details to higher grade positions; however, the employee's claim does not fall within this exception since he had not been detailed to a higher grade position.

DECISION

Mr. Lee R. Schneider, a former employee of the Internal Revenue Service (IRS), has, through his attorney, requested a review of our Claims Group settlement denying him a retroactive temporary promotion and backpay incident to an overlong detail.^{1/} For the reasons stated below, we concur with the determination of our Claims Group and find no basis for awarding a temporary promotion and backpay to Mr. Schneider.

BACKGROUND

Mr. Schneider was employed as a grade GS-12, Revenue Agent, with the IRS, and he claims that the duties he performed as a technical advisor and expert witness from 1973 until 1982 called for a rating of grade GS-13 or 14. Mr. Schneider states that the National Treasury Employees Union has a collective bargaining agreement with the IRS which provides for a temporary promotion and a subsequent pay increase for employees who are detailed to a higher grade position for 30 consecutive days or more.

^{1/} Z-2854681, Mar. 17, 1987.

Our Claims Group denied his claim for a retroactive temporary promotion and backpay, stating that the IRS had determined that Mr. Schneider's duties appeared to be within the scope of a grade GS-12 position and that our Office has no authority to determine an employee's proper classification.

OPINION

Retroactive temporary promotions for overlong details are not authorized by 5 U.S.C. § 3341 (1982), which limits the permissible length of details, by the Federal Personnel Manual, or by the Back Pay Act, 5 U.S.C. § 5596 (1982). Wilson v. U.S., 229 Ct. Cl. 510 (1981); Turner-Caldwell III, 61 Comp. Gen. 408 (1982). We have held that claims for temporary promotions which were filed, but not decided prior to the Wilson decision, such as Mr. Schneider's, must be denied. Turner-Caldwell III, 61 Comp. Gen. 408, at 410.

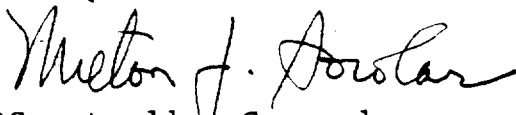
Where the parties to a collective bargaining agreement agree to make temporary promotions mandatory for details to higher grade positions, thereby establishing a nondiscretionary agency policy, there is an exception to this rule and those contract provisions may provide the basis for backpay. Beachley and Davis, 61 Comp. Gen. 403 (1982). However, Mr. Schneider's claim does not fall within the collective bargaining agreement exception since it has been determined by the IRS that he was not detailed to a higher grade position, but rather that the duties he performed were within the scope of his grade GS-12 position.

We are without authority to challenge this determination. The authority to classify General Schedule positions is vested by law in the agencies where the positions are located and the Office of Personnel Management, not in the General Accounting Office. See 5 U.S.C. §§ 5107, 5110, 5112, and 5115 (1982); 5 C.F.R. part 511 (1988).

Accordingly, we sustain the action of the Claims Group and deny Mr. Schneider's claim for a retroactive temporary promotion and backpay.

Finally, Mr. Schneider requests copies of material submitted to our Office by the IRS concerning his claim. We have

searched our files and we find no submission was made by the IRS apart from the documents submitted with Mr. Schneider's claim.

A handwritten signature in cursive script, reading "Milton J. Dorlan".

Acting Comptroller General
of the United States