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DECISION



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

FILE: B-196627

DATE: February 19, 1980

MATTER OF: Hoyt M. Weathers - Claim for Backpay - Detail to Higher-Graded Position

DIGEST: Employee classified as grade GS-13 alleges that he performed higher-grade GS-15 duties from 1970 to 1976 for which he was not paid. His claim for retroactive promotion with backpay is denied. Record indicates he performed assigned duties of his position as classified. Claimant has not met burden of proof and established liability of United States. Employee should have appealed classification to agency or Civil Service Commission.

This decision is in response to the appeal of Mr. Hoyt M. Weathers of our Claims Division settlement dated August 23, 1979 (Z-2714762). The settlement denied his claim for a retroactive temporary promotion and backpay. For the reasons stated below we sustain the settlement.

Mr. Weathers occupied a position classified as an AST, Space Sciences, GS-13, at the George C. Marshall Space Flight Center, Alabama. He states that he performed the higher-graded duties of a GS-15, Aerospace Engineer (Flight Systems), during the period August 30, 1970, to August 26, 1976. Mr. Weathers' original claim is for a period commencing at an earlier date; however, he recognizes that such portion is barred from our consideration by the 6-year statute of limitations in section 71a of title 31, United States Code. *AGC00198*

Mr. Weathers contends that he is entitled to a temporary promotion and backpay on the basis of our Turner-Caldwell decisions, 55 Comp. Gen. 539 (1975) and 56 id. 427 (1977), which hold that employees are entitled to temporary promotions for extended details to established classified higher-level positions, provided they meet certain requirements. Mr. Weathers bases his claim that he was detailed on a letter dated May 8, 1969, from the Director, Science and Engineering, Space Flight Center, assigning him the responsibilities of an Acting Staff Project Manager. The agency denied his claim on the basis that he did not perform the duties of a higher-graded position and that the duties he performed conform to his job classification.

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All claims are considered on the basis of the written record, and the burden of proof is on the claimants to establish the liability of the United States and the claimant's right to payment. 4 C.F.R. § 31.7 (1979); Oscar G. Adams, B-196633, January 4, 1980. With regard to what constitutes acceptable proof of a detail, paragraph 8F of Civil Service Commission Bulletin 300-40, May 25, 1977, states that acceptable documentation includes official personnel documents or official memoranda, a decision under established grievance procedures, or 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.

We do not believe Mr. Weathers has met the burden of proof. Mr. Weathers, in support of his claim, has furnished copies of a Special Service Award and an Outstanding Performance Award which cover the period 1968 to 1970. The awards indicate that Mr. Weathers performed the duties of a project manager for work on the Apollo Telescope Mount. Such duties correspond with his job classification which states that he provides technical and project management in the various work phases as applied to Saturn Apollo payloads, and specifically Apollo Telescope Mount experiments. On the other hand, the duties of the Aerospace Engineer are broader in scope. The job classification states that the incumbent "Serves as senior projects manager for the laboratory with responsibility for managing, coordinating and directing the technical phases of work within the laboratory concerning Saturn I, IB, and V systems engineering and integration programs, Saturn Apollo payloads, and in-flight experiment development programs. * * *" The duties of a GS-15, as stated in the classification, indicate also that the incumbent directs and coordinates with other project managers and is a "senior projects manager" for the entire laboratory. Thus, the awards seem to indicate that Mr. Weathers was merely performing his assigned duties in an exemplary manner. 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. Charles E. Reardon, Jr., B-194694, November 23, 1979.

At most, Mr. Weathers' awards indicate that he may have performed some higher-graded duties. There are innumerable

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instances in the Government service where employees perform certain duties of a higher classification, but as a general rule an employee is entitled only to the salary of the position to which he is actually appointed, regardless of the duties he performs. Although Mr. Weathers disagrees, his case concerns position classification. In a reclassification situation an employee who is performing duties of a grade level higher than the position to which he is appointed is not entitled to the salary of the higher-level position unless and until the position is classified to the higher grade and he is promoted to it. United States v. Testan, 424 U.S. 392 (1976); 55 Comp. Gen. 515 (1975). Mr. Weathers should have requested that his agency reclassify the position or should have filed an appeal of his position classification with the Civil Service Commission under the provisions of Part 511, subpart F, title 5 of the Code of Federal Regulations.

Accordingly, we sustain our Claims Division determination denying Mr. Weathers' claim for a retroactive temporary promotion and backpay.



Deputy Comptroller General
of the United States