



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

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M-178909

AUG 6 1973

Mr. Morris Vovakas  
U. S. Navy (Ship Parts  
Control Center (76122)  
Mechanicsburg, Pennsylvania 17055

Dear Mr. Vovakas:

Further reference is made to your letter of May 24, 1973, with enclosures, requesting reconsideration of the action taken by our Transportation and Claims Division on April 17, 1973, in disallowing your claim for an adjustment of salary in connection with the setting of your pay on promotion to grade GS-11, as an employee of the Department of the Navy.

The record indicates that due to a reduction in force you were reduced in grade from grade GS-11, step 7, to grade GS-9, step 10, with a retained rate effective December 2, 1969. On February 21, 1971, you were promoted to your former grade GS-11, step 7, at the retained rate of \$15,141 under section 5337 of title 5, United States Code. You are of the opinion that upon being promoted on February 21, 1971, in setting your salary rate there should have been taken into consideration quality increases received by you in the higher grade prior to your demotion. You say that if this had been done upon being promoted on February 21, 1971, you would have been entitled to grade GS-11, step 9 (\$15,983), which is a two-step increase of the grade formerly occupied by you. We are unaware of any authority, either by statute or regulation, for a special adjustment of your pay upon being promoted in recognition of the quality increases you previously received in the higher grade. Rather, your pay rate upon promotion to grade GS-11 was required to be made in accordance with the provisions of 5 U.S.C. 5334(b) which provides as follows:

\* \* \* If an employee so promoted or transferred is receiving basic pay at a rate saved to him under section 5337 of this title on reduction in grade, he is entitled to—

(A) basic pay at a rate two steps above the rate which he would be receiving if section 5337 of this title were not applicable to him; or

(B) his existing rate of basic pay, if that rate is the higher.

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Section 5337 of title 5, United States Code, provides that under the conditions stated therein an employee who is reduced in grade from a grade of the General Schedule is entitled to basic pay at the rate he was entitled immediately before the reduction for a period of 2 years from the effective date of the reduction. Under this statute your rate of compensation was to be retained for 2 years but your grade was actually reduced and if you were not re-promoted during the retained compensation period your salary would also have been reduced at the completion of such period.

Had your salary rate not been saved by virtue of section 5337, upon demotion you would have been placed in grade GS-9, step 10, and when re-promoted to grade GS-11 in February 1971 you would have been entitled as a matter of right to the lowest rate in grade 11 (\$14,720) that exceeded the pay for GS-9, step 10, by \$698—the equivalent of 2 within-grade steps of GS-9. Your retained rate of \$15,141 was higher than the rate you would have received by application of the 2-step increase, and is the highest rate to which you were entitled upon re-promotion to grade GS-11. See 42 Comp. Gen. 702 (1963) and 43 id. 507 (1964).

In passing we point out that the quality increases you received in grade GS-11 before your demotion were taken into consideration in establishing your saved rate upon demotion and when re-promoted you would have been placed in a lower step in grade GS-11 except for such quality increases.

Accordingly, we must sustain our previous action in the matter.

Sincerely yours,

Paul G. Deabling

For the Comptroller General  
of the United States