

7289

DECISION



C. Henry
11/11/78
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-186977

DATE: August 2, 1978

MATTER OF: Quality Control Inspectors--Reconsideration
of Matter of Donald R. Foulks, 56 Comp.
Gen. 624 (1977).

DIGEST: Quality Control Inspectors request reconsideration of decision denying their claim for retroactive change of effective date of pay adjustments following conversion from Wage Grade to General Schedule. The record in this case is not clear as to the precise date that the Quality Control Inspector positions were reclassified to the General Schedule. Ordinarily, new pay rates should be established within four pay periods following date of reclassification of positions. However, in view of complexities of this particular conversion action, we are not inclined to disturb effective dates established. Finally, we are unaware of any authority that would permit us to grant Inspectors' request.

This action results from the appeal of the Quality Control Inspectors, Oklahoma City Air Logistics Center of a decision of this Office, Matter of Donald R. Foulks, 56 Comp. Gen. 624 (1977). In that decision the Inspectors requested that the effective date of their conversions from the Wage Grade to the General Schedule be retroactively changed so as to afford them the benefit of a Wage Grade pay adjustment which occurred subsequent to their conversion.

On October 26, 1973, the Civil Service Commission issued Federal Personnel Manual (FPM) Letter 532-60, which provided conversion instructions and job grading standards for Wage Grade inspectors incident to the conversion from agency special wage schedules to the regular locality Federal Wage System nonsupervisory wage schedule. The new standard did not provide for coverage of the Wage Grade Quality Control Inspector position. In implementing the FPM Letter, the Air Force apparently determined that the various Quality Control Inspector positions were more appropriately described by the General Schedule 1960, Quality Inspection Series, and position classification surveys were initiated. The surveys confirmed that the subject positions should be reclassified to the Quality Control Inspection Series, GS-1960. The dates of the allocation of the positions to the General Schedule and the conversion from the Wage Grade to the General Schedule of the employees of the five divisions in the Quality Branch are shown below:

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<u>Divisions</u>	<u>Date Position Survey Approved</u>	<u>Date Employees Converted to GS</u>
Aircraft	April 7, 1975	July 13, 1975
Engine	March 27, 1975	August 10, 1975
Pneudraulics	March 28, 1975	August 24, 1975
Automatic Flight Control and Propulsion		
Instrument	March 31, 1975	September 7, 1975
Industrial Products	March 26, 1975	March 7, 1976

Because of an approximately 22.5 percent increase in Wage Grade pay effective October 19, 1975, as compared to the 5.5 percent increase granted to General Schedule employees, the Wage Grade employees converted to the General Schedule after October 19, 1975, received additional within-grade steps in determining the salary under the General Schedule. As an example, the claimants state that a WG-12, step 2 who was converted prior to the Wage Grade pay adjustment became a grade GS-8, step 2, while one converted subsequent to the October 19, 1975 pay adjustment became a grade GS-8, step 8. It is this disparity in pay that leads to the claimants' request that the effective date of their position changes be corrected to show that all divisions were converted after the October 19, 1975 Wage Grade pay adjustment.

In a statement presented to this Office on June 15, 1978, the claimants allege that an administrative error was committed by the Air Force in failing to effect the classification of the positions in a timely manner once it was determined that no provision was made for the Quality Control Inspector series in the new Civil Service Commission Wage Grade standards. Specifically, it is alleged that an administrative error occurred during:

" * * * the initial application of new job grading standards when the [Air Force] performed the ministerial act of effecting the classification decision through the creation of a personnel record on the Standard Form SF 50. * * * "

The Inspectors argue:

"that the effective date of a position classification action * * * taken by an agency is the date the action

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is approved unless the agency specifically sets a later effective date. The Comptroller General has emphasized that any later effective date which is administratively fixed by an agency must be 'within a reasonable period of time' (37 Comp. Gen. 492). [The Air Force] did in fact set later effective dates as reflected in the SF-50's created for converting the Quality Inspectors to general schedule. Those effective dates cover an eight month period and accomplished two specific purposes. First, it sets the date the classification decision is effected. Second, it establishes the date for setting rates of pay for the employee who is the subject of the SF-50. THE QUALITY INSPECTORS CLAIMED TO THE GENERAL ACCOUNTING OFFICE THAT THE ONLY ERROR COGNIZABLE AS AN ADMINISTRATIVE ERROR IS THE ONE FOR SETTING RATES OF PAY. Each SF-50 action would appear to be legal as to each individual affected. However, setting rates of pay based on effective dates covering an eight month period which permit intervening personnel actions to occur that become the source/reason for new inequity of pay between the class members is gross error for violating the equal pay principle * * *."

This Office recognizes the harmful nature of the pay inequities which exist among the Quality Control Inspectors at Tinker Air Force Base. However, any argument which seeks to overturn an admittedly legal personnel action solely on the basis that a future unrelated action--the October 19 pay raise--results in an inequitable situation, must fail. To hold otherwise would mean that personnel actions would not have the finality necessary to an efficient personnel system. Thus, we must affirm that portion of the holding in the Donald R. Foulks decision that pay inequities do not, by themselves, provide a basis for overturning otherwise valid personnel actions.

The main argument of the Quality Control Inspectors, as set out above, is that an administrative error was made in delaying the effective date of the pay increases for some Inspectors beyond a reasonable period following the classification of the positions to the General Schedule. Notwith-

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standing that argument, this Office is requested to invalidate all of the personnel actions and change the effective date of all Inspectors converted prior to the October 19, 1975 Wage Grade pay adjustment to a date that would coincide with the March 7, 1976, conversion date of the Industrial Products Division. In the event that the above request does not prevail it is urged that this Office report this claim to the Congress as a meritorious claim under the provisions of 31 U.S.C. § 236 (1976).

The above argument relies on the holding of our decision 53 Comp. Gen. 216 (1973). In that decision we held that when an agency reclassifies a position from one grade of the GS to a higher GS grade, it must within a reasonable time after the date of final position classification either promote the incumbent if he is otherwise qualified or remove him. Where an agency retains the incumbent in the position, such retention amounts to a determination that he is in fact qualified. The decision went on to determine that a "reasonable time" within which an agency must either remove the incumbent from the position or promote him was not later than the beginning of the fourth pay period after the classification action. See 5 C.F.R. § 511.701.

In our first decision on this matter, Donald R. Foulks, supra, the Inspectors sought to have the effective date of their position classifications retroactively changed. That request was denied by this Office on the basis that a classification action is effective on the date the action is approved or such later date as the agency specifies. In this appeal, the Inspectors do not challenge the effective dates of the position reclassifications. Instead, they challenge the effective dates of the pay adjustments which followed the classification action. In their argument, the Inspectors refer to the classification decision, that is the decision to convert the Quality Control Inspectors' positions from the Wage Grade to the General Schedule, without actually establishing a date therefor. This Office has not been able to determine from the record the exact date of the position reclassifications of the various Inspectors. We have been informally advised by the Civilian Personnel Office, Tinker Air Force Base, that the Quality Control Inspectors' positions were actually classified to the

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General Schedule on the date that the position classification surveys were approved. Those dates range from March 26, 1975, to April 7, 1975, as shown on the chart contained above. Consistent with the rule established by 53 Comp. Gen. 216, supra, the Air Force ordinarily should have established the new pay rates for all of the incumbents of the reclassified positions not later than the beginning of the fourth pay period following the dates of the reclassification. It is not apparent from the record as to why the pay actions for the various classes of the Quality Control Inspectors were implemented over such a long period of time -- approximately 8 months. We find no reason, however, on the basis of known facts to impute bad faith to officials of the Tinker Air Force Base. Accordingly and bearing in mind the apparent complexities present in the conversions here in question, our Office is inclined not at this late date to declare the effective dates set by agency action for the conversion as illegal.

Moreover, on the basis of the indicated time frame of the reclassification actions, we are unaware of any authority for holding under existing law and regulation that the pay adjustment of the individuals converted prior to October 19, 1975, be made effective March 7, 1976, the conversion date of the Industrial Products Division.

Further, after careful consideration of this matter, we do not believe the various factors that may have caused the agency to set different effective dates of conversion are of sufficient certainty for us to transmit this case to the Congress as a meritorious claim under the provisions of 31 U.S.C. § 236, supra.


Deputy Comptroller General
of the United States