

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

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FILE:

DATE: JUN 2 1975

MATTER OF: B-183103

**William A. Campbell - Position Classification -
Retroactive Effect**

DIGEST:

Former employee seeks retroactive promotion with backpay for period from June 6, 1971, to August 30, 1974, as an employee of the Department of the Army. He alleges his position was improperly classified. Statutory authority to establish appropriate classification standards and to allocate positions subject to the General Schedule rests with the agency concerned and the Civil Service Commission. Therefore, GAO has no authority to classify positions or to settle claims on any basis other than the agency or CSC classification.

This action constitutes a review of the disallowance of a claim by Mr. William A. Campbell, as a former employee of the Department of the Army, for retroactive promotion with salary differential between grades GS-15 and GS-16 from June 6, 1971, to August 30, 1974. Mr. Campbell's claim was disallowed on December 12, 1974, by Settlement Certificate issued by our Transportation and Claims Division on the primary ground that Federal Government employees are entitled only to the salaries of the position to which they are appointed regardless of the duties they actually perform, citing Coleman v. United States, 100 Ct. Cl. 41 (1943) and Amundson v. United States, 128 id. 80 (1954).

Mr. Campbell states that the position to which he was appointed was, prior to his appointment thereto, classified as a GS-16. However, when his predecessor's position became vacant, the job description was changed and the position was reclassified as a GS-15. Mr. Campbell was appointed to the GS-15 position. He alleges that the job description was improper, that he performed the same duties as his predecessor, and that he is entitled to the pay of a GS-16. Mr. Campbell, in effect, asks that our Office determine the proper classification grade of his position.

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Under the provisions of 5 U.S.C. § 5105 (1970), the Civil Service Commission (CSC) has the authority and responsibility for the preparation and publication of standards for classification of positions subject to the General Schedule. Each agency is required by 5 U.S.C. § 5107 to place its positions, unless otherwise provided in chapter 51, United States Code, in their appropriate class and grade to conform with the standards published by the CSC. That section also provides that, subject to section 5337 of title 5, United States Code, actions of an agency under the authority of section 5107 are the basis for pay and personnel transactions until changed by certificate of the CSC. Under the provisions of 5 U.S.C. § 5110, the CSC is required to review agency classification actions and correct such actions which are not in accordance with published standards. The CSC correction certifications are binding on all administrative, certifying, payroll, disbursing, and accounting officials.

Additionally, 5 U.S.C. § 5112 provides:

"§ 5112. General authority of the Civil Service Commission.

"(a) Notwithstanding section 5107 of this title, the Civil Service Commission may --

"(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of a position;

"(2) place in an appropriate class and grade a newly created position or a position coming initially under this chapter;

"(3) decide whether a position is in its appropriate class and grade; and

"(4) change a position from one class or grade to another class or grade when the facts warrant.

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The Commission shall certify to the agency concerned its action under paragraph (2) and (4) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing and accounting officials.

"(b) An employee affected or an agency may request at any time that the Commission exercise the authority granted to it by subsection (a) of this section and the Commission shall act on the request."

Additionally, it would appear that the GS-16 level desired by Mr. Campbell would be governed by 5 U.S.C. § 5108 (1970), which places the allocation authority for such positions in the Civil Service Commission.

The record before us is silent as to whether Mr. Campbell has exercised his rights under section 5112(b), supra, or raised the question of the classification of his position within his agency. In view of the statutes discussed above, however, this Office has no authority to determine his proper classification or to settle his claim other than on the basis of the agency or CSC classification. Accordingly the disallowance of his claim is sustained.

A copy of the administrative report submitted to this Office is being furnished to Mr. Campbell at his request. Additionally Mr. Campbell asked several questions pertaining to the position classification process which in effect are answered above. In this connection by way of emphasis the remedy for assuring the effectiveness of the provisions of 5 U.S.C. § 5105 -- previously 1094 -- is provided in part by the employee's right to appeal the classification of his position as indicated above. The applicable Civil Service Commission regulations including the provisions for the effective date of classification changes are found at 5 C.F.R. §§ 511.101-511.703. Generally the regulations provide that the effective date of a classification action or correction is the date the action is taken or correction made at subsequent date. The only provision for retroactive effect is provided in section 511.703 when the classification action results from an appeal

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of a downgrading or loss of pay. Therefore, the answer to Mr. Campbell's final question -- whether his claim would be allowed if the original classification of his position was found to be in error -- is no, since the correction of a classification action has prospective application only.

R.F. KELLER

Deputy Comptroller General
of the United States