

PLM-11

**DECISION**



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

10, 022

FILE: B-193583

DATE: May 17, 1979

MATTER OF: James Byrnes - [ Retroactive Quality Step  
Increase ]

DIGEST: Agency erroneously filed a supervisor's insufficiently documented recommendation for a quality step increase (QSI) before it had been considered by the approving official. The increase may not be made on a retroactive basis since the granting of a QSI, pursuant to 5 U.S.C. 5536, is discretionary and the record does not show any agency regulation which overcomes the failure of the appropriate agency officials to timely approve the recommendation.

The Director of Personnel, Action, requests a decision as to whether a Quality Step Increase (QSI) may be retroactively granted where there was a delay in processing its recommendation. Here there is no basis for granting retroactive effect.

In March 1977, Mr. James Byrnes, State Program Director for Kansas, was recommended for consideration for a QSI on his performance evaluation submitted by his supervisor. The Regional Director concurred with this recommendation. In March 1978 Mr. Byrnes advised his supervisor that the increase had not been processed. The supervisor discovered that the evaluation together with the recommendation had been filed in Mr. Byrnes' official personnel folder and had not been signed by the Office Head nor the Director of Personnel as required by the agency. A review of the evaluation showed that it lacked sufficient documentation. After additional documentation was provided, a QSI was granted. The agency believes that its delay was an unjustified or unwarranted personnel action under the Back Pay Act of 1966, 5 U.S.C. 5596 (1976). The agency proposes that the QSI be made effective retroactive to May 8, 1977, the date it estimates the award would have been effective but for the delay. The record does not show any regulation which overcomes the failure of the Office Head and the Director of Personnel to timely approve the recommendation.

In general an administrative change in salary may not be made retroactively effective in the absence of a statute so providing. 26 Comp. Gen. 706 (1947); 39 id. 583 (1960); 40 id. 207 (1960). The effective date of a change in salary is the date when action is taken by the administrative officer vested with the necessary authority or a subsequent date specifically fixed. 21 Comp. Gen. 95, 96 (1941).

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However, where an administrative or clerical error has prevented a personnel action from taking effect as originally intended; denied an employee a right granted by statute or regulation; or resulted in the failure to carry out a nondiscretionary administrative regulation or policy, a retroactive personnel action may be processed. Such an exception constitutes an unjustified or unwarranted personnel action under the Back Pay Act. 5 U.S.C. 5596 (1976). Matter of Joseph Pompeo, et al, B-186916, April 25, 1977; 55 Comp. Gen. 836, 838 (1976). 55 id. 42 (1975).

The approval of a QSI pursuant to 5 U.S.C. 5536 (1976) is discretionary with the agency. Matter of Carolyn Whitlock, B-192365, February 14, 1979, 58 Comp. Gen. \_\_\_\_\_. Since the record does not show any agency regulation which would have required that Mr. Byrnes be awarded a QSI without the approval of the Office Head and the Director of Personnel, the delay did not constitute an unjustified or unwarranted personnel action. Accordingly, there is no basis to allow a retroactive action.

**R.F.KELLER**  
Deputy Comptroller General  
of the United States