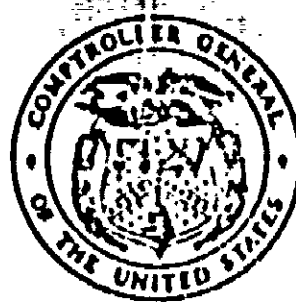


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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20543**

**FILE:** B-203615

**DATE:** February 26, 1982

**MATTER OF:** James A. Zamora - Claim for retroactive promotion due to administrative error

**DIGEST:** Guard, whose promotion request was forwarded with three other requests, seeks retroactive promotion where his request was mislaid and his promotion was delayed due to administrative error. Claim is denied since error occurred prior to approval of promotion by properly authorized official.

The Office of the Assistant Comptroller of the Army has requested an advance decision concerning its authority to award a retroactive promotion to Mr. James A. Zamora based on an administrative error.

Mr. Zamora was one of four civilian employees of the U.S. Army Dugway Proving Ground recommended for promotion to grade GS-5, step 3. His promotion papers were approved by the Force Development office on December 11, 1980, and were logged into the Position and Pay Management Branch on December 15, 1980. Three SF-52's (promotion recommendations), other than Mr. Zamora's, were logged out of the Position and Pay Management Branch on December 22, 1980, sent to Recruitment and Placement Branch, and processed out of that office on January 14, 1981. Those three promotions became effective January 18, 1981, at the grade GS-5, step 3, level.

In late February 1981, Mr. Zamora's SF-52 was found paper-clipped to other SF-52's in the Position and Pay Management Branch, and, as a result, it had not been processed. Upon discovery, the SF-52 was processed with an effective date of March 1, 1981, the beginning of the next pay period. Due to a change in pay rates for guards, effective January 18, 1981, Mr. Zamora was promoted on March 1 to only step 2 of grade GS-5. Had Mr. Zamora's promotion

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been processed on the same date as the other three promotions, he would have been promoted to step 3 of grade GS-5.

Mr. Zamora claims a retroactive promotion plus the difference between his old rate of pay and his new rate of pay if his promotion had become effective January 18. Mr. Zamora also notes that the loss of one within grade increase in pay due to the salary change and the administrative error of the Civilian Personnel Office will result in a loss of \$409.00 per year base pay, plus differential pay for every year Mr. Zamora is employed as a guard.

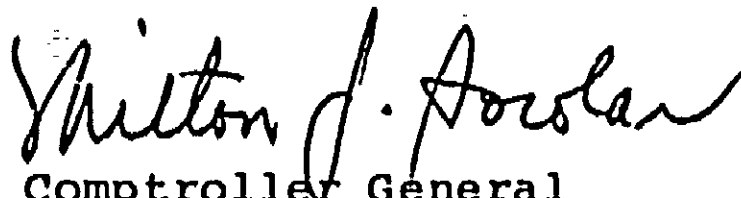
Delays or omissions in processing of promotions may be regarded as administrative or clerical errors which will support a retroactive promotion. Our decisions have drawn a distinction between those errors that occur prior to approval of the promotion by the properly authorized official and those that occur after such approval, but before the acts necessary to effect the promotions have been fully carried out. See 54 Comp. Gen. 538 (1974); B-183969, B-183985, July 2, 1975; and B-184817, November 28, 1975. The rationale for drawing this distinction is that the individual with authority to approve promotion requests also has the authority not to approve any such request unless his exercise of disapproval authority is otherwise constrained by statute, administrative policy, or regulation.

Thus, where the delay or omission occurs before that official has had the opportunity to exercise his discretion with respect to approval or disapproval, administrative intent to promote at any particular time cannot be established other than by after-the-fact statements as to what the official states would have been his determination. After the authorized official has exercised his authority by approving the promotion request, all that remains to effectuate that promotion is a series of ministerial acts. In that case, since administrative intent to promote is established, a retroactive promotion is the remedy for the failure to accomplish those ministerial acts. Douglas C. Butler, 58 Comp. Gen. 51 (1978).

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In the instant case the administrative report indicates that normally all Dugway Proving Ground civilian promotion actions are effected within 4 weeks of receipt in the Recruitment and Placement Branch of the Civilian Personnel Office. However, the report from the Comptroller, U. S. Army Test and Evaluation Command, Aberdeen Proving Ground, states that Mr. Zamora's SF-52 was lost prior to its approval by the properly authorized official. Therefore, Mr. Zamora is not entitled to a retroactive promotion due to the error occurring in the Pay and Management Branch before the approval of the promotion by the properly authorized official, as enunciated in the rule established in 54 Comp. Gen. 538, supra.

Accordingly, since there was no administrative error which would form the basis for a retroactive promotion, we hold that Mr. Zamora's claim must be denied.

for   
Comptroller General  
of the United States