



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

Brown
15890 114151

OFFICE OF GENERAL COUNSEL

January 14, 1981

In reply refer to:
B-197102

Henry F. Naftaly
10709 Sharp Avenue
San Fernando, California 91345

Dear Mr. Naftaly:

This is in further reference to your letter of November 21, 1979, appealing from the General Accounting Office, Claims Division's determination denying your claim for retroactive promotion with backpay. Your claim is based on the General Services Administration's failure to promote you to a Federal Protective Officer position as the result of a physical examination which you state was "discriminatory." In addition, you stated that you were discriminated against because of a physical handicap.

The Claims Division advised you by letter dated March 20, 1979, that the Veterans Preference Act requirement that physical requirements be waived for a preference eligible does not apply to promotion actions. By letter dated August 13, 1979, you were further advised that this Office does not have jurisdiction to entertain complaints of discrimination by employees of other agencies.

Having carefully reviewed your letter of November 21, 1979, we find that it essentially reiterates your claim of discrimination. The General Accounting Office does not pass upon matters of discrimination and it does not review questions of qualifications for promotion or appointment. These are matters for the employing agency and the Office of Personnel Management. For this reason

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and because the General Services Administration did not violate a nondiscretionary regulation or policy in failing to promote you at an earlier date, we must advise you that we find no basis upon which your claim may be considered.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Edwin J. Monsma", followed by a long horizontal flourish.

Edwin J. Monsma
Assistant General Counsel