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



OFFICE OF GENERAL COUNSEL

IN REPLY
REFER TO: B-193355 (VBG)

AUG 8 1979

Roger L. Smith, Esq.
O'Connor, Preston, Glenn and Smith, P.A.
The Law Building
St. Paul Place at Franklin
Baltimore, Maryland 21202

will also be available to public reading

Dear Mr. Smith:

This refers to your letter of June 28, 1979, RLS:peb, in which you request reconsideration and clarification of B-193355, May 14, 1979, in which Mr. Bruno DiSimone was denied a retro-active promotion with backpay. Since you have failed to provide new evidence which establishes a factual or legal basis for the claim the Comptroller General shall not reconsider that decision.

With regard to your question as to when and by what authority has the position of Deputy Commissioner been downgraded, we explained in B-193355, May 14, 1979, that:

"* * * Section 902, title 33, United States Code, defines the term 'Deputy Commissioner' but does not indicate the salary or grade of that position. In this connection the record shows that in the GS-15 Position Description for Mr. Adler, Mr. DiSimone's predecessor, the position title was 'Supervisory Workmen's Compensation Claims Examiner.' The title 'Deputy Commissioner' appears only in the part of the Position Description Form under the heading 'Description of Duties and Responsibilities.' Thus, it appears that the title 'Deputy Commissioner' is a functional title rather than a position classification title. * * *"

Mr. DiSimone has raised a classification issue. His predecessor was a grade GS-15; Mr. DiSimone is now a grade GS-13, and the Civil Service Commission (now Office of Personnel Management) has approved Mr. DiSimone's classification at the grade GS-13 level. Our Office has no authority to review classification

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determinations of the Civil Service Commission. Moreover, there is no further administrative appeal from such determinations. See 5 C.F.R. § 511.610. Likewise, we have no jurisdiction to determine the legality of decisions under the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. § 921 (1976).

We have enclosed a copy of the Position Description for Supervisory Workmen's Compensation Claims Examiner, grade GS-991-15, as requested.

Sincerely yours,

Robert L. Higgins

Robert L. Higgins
Assistant General Counsel

Enclosure