



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

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IN REPLY REFER TO: B-198172 (MRV)

October 8, 1980

The Honorable Daniel K. Inouye
United States Senator
Prince Kuhio Federal Building
300 Ala Moana Boulevard, Room 6104
Honolulu, Hawaii 96850

Dear Senator Inouye:

This is in response to your inquiries on behalf of Mr. Mariano Debusca, Jr., an employee of the Department of the Navy, concerning his claim for additional compensation incident to his transfer in 1966 from a prevailing rate position to a position under the General Schedule. His claim was denied by our Claims Division on April 19, 1979.

Mr. Debusca contends that prior to 1974 the policy of the Navy was to include the cost-of-living allowance (COLA) payable for the General Schedule position in fixing the rate of pay upon transfer from a wage board to a General Schedule position and that his pay was set under this policy in 1966. However, in 1974 the Navy changed its policy to exclude COLA from the pay setting determination, and that change resulted in employees receiving higher rates of pay for transfers like Mr. Debusca's. Mr. Debusca argues that this change of policy is inequitable and that he is not receiving equal pay for equal work.

We have recently been advised that the same issue in Mr. Debusca's claim is also the subject of a lawsuit filed by other Navy employees in Ralph K. Ah Sam v. United States, Ct. Cl. No. 352-79C. We have been advised by the Department of Justice that the court in this case is currently considering motions for summary judgment filed by both plaintiff and defendant. Since it is the long-standing policy of this Office not to issue decisions on questions which are before the courts, we will hold Mr. Debusca's claim in abeyance pending a decision in the Ah Sam case.

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Mr. Debusca also claims additional compensation based upon the decision of the Court of Claims in Joseph J. Clark, et al. v. United States, No. 26-76, which held that upon promotion from a wage board to a General Schedule position an employee is entitled to a two-step increase. A final decision on the backpay entitlements of the plaintiffs in Clark was issued on August 8, 1980, and the Department of Justice is currently considering whether to appeal the Clark decision to the United States Supreme Court. Therefore, we are holding in abeyance all claims based on the Clark decision until all appeals are exhausted.

When final decisions are reached in the two lawsuits described above, we will consider Mr. Debusca's claim further and advise you of our determination. In the interim, any inquiries on behalf of Mr. Debusca should be directed to the Associate Director, FGMSD, Claims Group, in our Office with reference to file number Z-2804342.

We trust this information is of assistance to you and your constituent.

Sincerely yours,



For the Comptroller General
of the United States