

1980 WL 120761 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 2, 1980

***1 RE: Fleetwood B. Lilley (Demotion and Reclassification Appeal)**

Jack S. Mullins, Ph.D.
Director
Personnel Division
State Budget and Control Board
1205 Pendleton Stateet
Columbia, South Carolina 29201

Dear Dr. Mullins:

You have recently asked this Office for its opinion as to whether the State Employee Grievance Committee-would have jurisdiction over Mr. Lilley's grievance appeal. The grievant claims that he was demoted and financially prejudiced as the result of the reclassification of his position. He also claims that the proper procedure for accomplishing a position reclassification was not followed and that the agency treated him discriminatorily when it reclassified his position. See letter dated June 10, 1980, from Turner to Mullins and Request for Appeal. The agency claims that Mr. Lilley has not suffered a reduction in pay and that his pay grade as well as the pay grades of others with his former job title were changed downward as the result of agency-wide reorganization. See letter dated May 12, 1980, Barnett to Mullins. Your Office has concluded that Mr. Lilley's position currently is classified properly. See letter dated May 30, 1980, Mullins to Turner.

While § 8-17-20, 1976 Code of Laws of South Carolina, provides that a demotion is a proper subject of a grievance appeal, a review of documents related to this case reveals that a demotion as defined in the State Employee Personnel Rules Manual, promulgated by the State Budget and Control Board pursuant to [§ 8-11-230 of the Code](#) did not occur. A demotion connotes a disciplinary action. See Section 5.03 of the Manual.

The State Employee Grievance Procedures Act, § 8-17-20 of the Code provides that a job classification is not grievable unless discrimination is alleged. This Office has issued an opinion dated January 24, 1978, which states that a proper subject for consideration under the Grievance Act is a classification which allegedly involves discriminatory treatment based on race, religion, sex, national origin, age, or handicap. Mr. Lilley has not alleged any such discrimination. Therefore his job classification is not the proper subject matter of a grievance appeal. Additionally, the Manual expressly provides:

An employee whose position is reclassified to a classification with a lower pay grade shall not have the right to appeal the reclassification to the State Employee Grievance Committee. Section 6:04. A.4.

Although the grievant apparently believes that a downward reclassification is synonymous with a demotion, such is not the case even though the impact visited upon the grievant might be the same. See [Heyne v. Mabrey, — Ind. —, 383 N.E.2d 464, 466 \(1978\)](#) and [Carls v. Civil Services Commission, 17 N.J. 215, 111 A.2d 45, 48-49 \(1955\)](#) (Copies enclosed).

For the foregoing reasons it is the opinion of this Office that the reclassification in this instance is not the proper subject of a grievance appeal.

Sincerely,

***2** Barbara J. Hamilton

Assistant Attorney General

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