

a hearing officer from the Department may conduct a hearing under this subsection at one of the regional sites designated by the Secretary for hearing grievance disputes under this subsection. In either case the appeal must be submitted within 15 days after the receipt of the written decision at step four. If the grieving employee chooses to have his grievance heard by the Secretary of Personnel, the Secretary shall render his written decision within 45 days after the hearing is held by him or his authorized representative or within 45 days after all legal memoranda or briefs have been filed in the grievance hearing. In the event of arbitration, the parties shall select an arbitrator by mutual agreement. If they are unable to reach a mutual agreement, an arbitrator shall be supplied by the American Arbitration Association in accordance with its procedures. Any fees resulting from arbitration shall be assessed by the arbitrator equally between the two parties. The decision of the arbitrator shall be advisory to the Secretary of Personnel and no additional appeals or hearings may be considered. The Secretary of Personnel shall make the final decision which shall be binding on all parties. The written decision of the Secretary shall be rendered within 15 days after the receipt of the decision of the arbitrator.

(b) The Secretary of Personnel shall have the power to order an appointing authority to grant back pay in any grievance and an appointing authority shall enforce any such order.

~~(C) IN ANY RECLASSIFICATION CASE, IF COMPLETION OF THE FOURTH STEP IN THE GRIEVANCE PROCEDURE DOES NOT RESOLVE THE DISPUTE GRIEVANCE, IF THE MATTER IS NOT RESOLVED AT THE SECOND STEP AND THE EMPLOYEE FILES AN APPEAL TO THE SECRETARY OF PERSONNEL, THE SECRETARY OF PERSONNEL SHALL REQUIRE AN AUDIT OF THE POSITION TO DETERMINE IF THE POSITION IS APPROPRIATELY CLASSIFIED, IF NO AUDIT HAS BEEN PERFORMED WITHIN THE LAST YEAR.~~

[(c)] (D) In any reclassification case in which the Secretary of Personnel or his authorized representative determines that an employee is entitled to back pay because the employee has been misclassified or has been working out of classification, the Secretary may, in his discretion, award back pay to the employee for a period not to exceed one year prior to the initial filing of the grievance.

[(d)] (E) If the step five hearing has been held and in that hearing the initial determination was rescinded, no further action may be taken against an employee with regard to the charge that was considered in the hearing.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1986.

Approved May 27, 1986.

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