

**EDWARD M. SCOTT v. U.S. General Accounting Office**

**Docket No. 53-701-11-84**

**Date of Decision: December 24, 1985**

**Cite as: Scott v. GAO, Docket No. 53-701-11-84 (12/24/85)**

**Before: Charles Feigenbaum, Presiding Member**

**Headnotes:**

**Dismissal**

**Exhaustion of Remedies**

**Motion to Dismiss**

**Performance Appraisal System and Procedures**

**SUPPLEMENTAL DECISION OF THE PRESIDING MEMBER WITH RESPECT TO  
AGENCY'S MOTION TO DISMISS**

BEFORE THE  
PERSONNEL APPEALS BOARD  
U.S. GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C.

\*\*\*\*\*  
\*  
EDWARD M. SCOTT, \*  
Petitioner \*  
\*  
v. \*  
\*  
GENERAL ACCOUNTING OFFICE, \*  
Respondent \*  
\*  
\*\*\*\*\*

Docket No. 53-701-11-84

SUPPLEMENTAL DECISION OF THE PRESIDING  
MEMBER WITH RESPECT TO AGENCY'S MOTION TO DISMISS

On October 24, 1985, this Presiding Member issued an initial decision with respect to the Agency's Motion to Dismiss. In that decision I ruled that one of the petitioner's claims was properly before the Board. Other claims were dismissed and, with respect to still others, petitioner was given the opportunity to furnish certain specified information to permit me to determine whether or not they should be dismissed.

DISCUSSION

As stated in paragraph 4 of the initial decision of October 24, 1985, any claim not processed through the PAB General Counsel, and any claim involving alleged civil rights discrimination

Civil Rights Office, are dismissed. Thus, only claims contained in petitioner's October 24, 1984, document headed "GRIEVANCE" have the potential for appeal to the PAB. That document makes it clear that the heart of petitioner's claim is his belief and assertion:

...that all the entries in my RANKING RECORD... particularly those for DATA GATHERING AND DOCUMENTATION, WRITTEN COMMUNICATION, ORAL COMMUNICATION, ADMINISTRATIVE DUTIES; and MAINTAINING EFFECTIVE RELATIONSHIPS WITH EEO, were improperly derived, vindictive, in part based on discrimination and are completely judgmental. ...

The rest of the October 24, 1984, petition contains background material and petitioner's statement of the reasons for the allegedly improper evaluation:

- GAO's personnel system is not a professional, sound personnel system in that "...people performing these functions are not professional personnel specialists or administrators; is based entirely on judgment; and its system of 'feedback' and counseling are non-existent."

- The low evaluation was in reprisal for testimony he gave in a race discrimination case filed by another GAO employee, Angela McGhee; because of "...reply to referencer's note 131 in the NAVFAC job"; and because of his reluctance to accept "...verbal 'advisory' comments to make deletions to the Sup Ship summary, which deletions would distort the truth in that summary... ."

- Petitioner has been outspoken on a range of internal matters, e.g., charging that only North Carolinians were promoted to higher grades in his office. As a result he was adjudged to be not a team player "...and therefore [had] to be suitably rewarded, viz., the ranking in question." In addition, petitioner claimed that:

- Promotions to GS-13 and GS-14, and placements on best-qualified lists were based on favoritism;

- The GAO has turned into a top-heavy, high-graded organization which no longer performs the kind of audits envisioned by the Budget and Accounting Act of 1921; and

- reorganizations occurred overfrequently.

Most of these claims (e.g., the soundness and/or professionalism of the GAO's personnel system) are outside the scope of matters which a petitioner may appeal to the PAB. There are others which, arguably, could be before the Board. It was with respect to these that petitioner was given the opportunity to provide additional information.

Finally, one claim was found to be properly before the Board in my initial decision. This concerns the evaluation on the job dimension "Maintaining Effective Working Relationships and Equal Opportunity", allegedly given in reprisal for testimony given in the Angela McGhee case.

I have carefully reviewed the entire record in this case, including petitioner's documents of October 27 and 30, 1985; petitioner and Agency responses to each other's interrogatories; and the PAB General Counsel's investigative file sent to me at petitioner's request. It is my judgment, based on that record, that the petitioner has not provided information which would support having any issue heard, other than that mentioned in the paragraph immediately above.

DECISION

All claims are dismissed other than that concerning alleged reprisal with respect to petitioner's evaluation on the job dimension "Maintaining Effective Working Relationships and Equal Opportunity." Hearing is set for 10 a.m. on January 23, 1986, at the Board's hearing room. If more than one day is required, the hearing will continue on January 24, 1986.

  
Charles Feigenbaum  
Presiding Member

Dated: 12/24/85