

No Jurisdiction Under Tucker Act to Review Contract Claim of Competitive Service Employee

In *Charnetski v. United States*, a federal employee sued the Government in the U.S. Court of Federal Claims for breach of contract when the Government cancelled a retirement plan that allowed the otherwise full-time employee to work part time until her retirement, and required her to either fully retire early or return to full-time employment. The Government moved to dismiss her lawsuit on the grounds that the CFC did not have jurisdiction because Charnetski was not hired under a contract, but rather hired by “appointment,” the federal equivalent of being hired “at will.” The court agreed, concluding that because Charnetski was a member of the competitive service, which includes all “civil service positions in the executive branch, and the civil service includes all appointive positions,” there was no contract to be breached and the court did not have jurisdiction over her claim.

Charnetski responded to these arguments by contending that the contract at issue was not the appointment to her position, but a second agreement created when the Agency approved her application to the Gradual Retirement Program. But the court rejected this argument, too, holding that because the approval related to the terms of her appointment, the approval was part of her appointment and did not create a contract:

In sum, plaintiff is employed by the [Agency] by appointment, and any agreement she reached with the [Agency] that related to the terms of her employment, such as the [Agency]-approved request for gradual retirement, was derived from her appointment. Because plaintiff cannot establish the existence of an employment contract, the court lacks jurisdiction under the Tucker Act to entertain plaintiff’s claim for breach of contract.

The full opinion can be read [here](#).

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