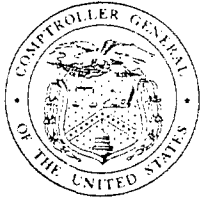


PLM-I

DECISION



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

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FILE: B-190487

DATE: February 23, 1979

MATTER OF: ~~Paul J. Walski--Veterans Administration~~ *Employee*
[Claim For Relocation Expenses by]

DIGEST: An employee states that he was not authorized relocation expenses incident to an intra-agency transfer from Fort Harrison, Montana, to Brockton, Massachusetts, due to a shortage of funds at the Brockton facility. Agency reports that employee desired to relocate on east coast and was advised that he would not be reimbursed costs of transfer. This Office has previously held that "budget constraints" cannot form basis for denying an employee relocation expenses if transfer is found to be in the Government's interest. Also, the fact that the employee desired to relocate to east coast would not preclude a finding that the transfer was in the Government's interest. However, on the present record, the claim must be denied.

Mr. Conrad R. Hoffman, Controller, Veterans Administration, requests our decision as to whether once position vacancies are circularized nationwide and selection made by inter or intra-agency transfer, such filling of the position must be considered for the benefit of the Government.

The specific facts giving rise to Mr. Hoffman's request are as follows. The Veterans Administration Hospital in Brockton, Massachusetts, in attempting to fill two Social Worker positions for the Family Mental Health Services program, requested a list of eligibles from the Civil Service Commission and also circularized the openings throughout the Veterans Administration. Mr. Paul J. Walski, an employee of the Veterans Administration Hospital, Fort Harrison, Montana, was selected for one of the positions. The record does not show that his transfer comes within the purview of a merit promotion plan. At the time of selection, a determination was made that travel and transportation expenses would not be paid, and Mr. Walski was advised of that determination by the Chief, Social Work Service, Brockton

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Veterans Administration Hospital. Mr. Walski states that he was advised at that time that the reason for the denial of travel and transportation expenses was due to a lack of funds at the Brockton facility. Mr. Walski also states that he sought the position at Brockton because of his wife's desire to live in that area and because it is an outstanding hospital with an excellent reputation in his profession of social work.

The Veterans Administration issued an "Intra-Agency Transfer Request" which specifically states that travel and transportation expenses were not authorized. Mr. Walski signed that document prior to his departure from his old duty station. Subsequently, Mr. Walski sought reimbursement for those expenses, notwithstanding that he had accepted the position after being notified that travel and transportation expenses would not be authorized.

The question presented by the Veterans Administration is as follows:

"If we correctly interpret your ruling in B-168658, dated January 14, 1970, enclosed, it appears that agencies have no discretionary authority to reduce or change benefits otherwise provided by statutory authority. May we therefore consider that once position vacancies are circularized nationwide and selection made by inter or intra agency transfer such filling of the position must be considered for the benefit of the government?"

In the cited decision we allowed payment of real estate expenses incident to the purchase of a residence at the new duty station, even though such expenses had not been specifically authorized by the agency. That case only stands for the proposition that certain allowances under the FTR, such as real estate expenses, will be on a uniform basis. However, under the FTR certain other expenses, as, for example, househunting trips and subsistence expenses while occupying temporary quarters, are left to administrative discretion. 55 Comp. Gen. 613 (1976). The determination as to whether a particular type of expense incurred incident to an authorized transfer is required to be allowed by

an agency or is within administrative discretion is for determination under the specific provisions of law and regulation controlling that expenditure. Concerning 5 U.S.C. § 5724(a) payment is conditioned upon an authorization or approval of the head of the agency concerned or his designee.

In our decision Matter of David C. Goodyear, B-187687, June 14, 1977, we stated that FTR para. 2-1.3 required an agency to make a determination as to whether an employee's transfer is in the interest of the Government or primarily for the convenience or benefit of the employee. We then held:

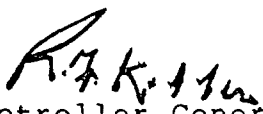
"The Navy's statement, that 'budget constraints' did not at that time permit payment of relocation expenses except in manpower shortage categories, misconstrues the purpose and scope of the requirement to make a determination as to whether a particular transfer is in the interest of the Government. The requirement in FTR para. 2-1.3 refers to determining whether or not the transfer is in the interest of the Government. No provision is made to permit such determination, in effect, to be predicated on the cost of relocation expenses***. Thus, 'budget constraints' cannot form the basis for denying an employee relocation expenses if his transfer has been found to be in the Government's interest."

Our decision Matter of Ferdinando D'Alauro B-173783.192, December 21, 1976, addressed the written policy of the Customs Service that the transfers of employees who are transferred pursuant to the agency's Merit Promotion Plan would be considered to be in the Government's interest. We stated therein the general rule that if the agency recruits or requests an employee to transfer to a different location, the transfer will normally be regarded as being in the interest of the Government. However, since Mr. D'Alauro's reassignment to a position at Fort Pierce was a lateral transfer to a position with no greater promotion potential than his former position, his reassignment was considered as being outside the Merit Promotion Plan. Accordingly, we viewed his transfer as being for his convenience and relocation expenses were denied.

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Of course, if an agency orders the transfer, and the employee has no discretion in the matter, payment of relocation expenses should be made. Finally, where a transfer has been determined by an agency to be in the Government's interest, the fact that the transfer also serves the employee's personal needs does not preclude allowance of otherwise proper expenses. 54 Comp. Gen. 892 (1975).

On the record before us it has not been shown that the transfer here in question was a promotion under a Merit Promotion Plan or was to a position with a greater promotion potential. The Controller says that because of a shortage of funds the employee was accepted for the position and advised that any expenses associated with the move would have to be borne by him. The record further indicates that the employee accepted the transfer primarily for personal reasons. There is no showing of the required determination by the agency that the transfer of the employee was in the interest of the Government and not primarily for the convenience or at the request of the employee. Accordingly, on the present record, the travel and transportation expenses are not allowable.


Deputy Comptroller General
of the United States