



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548

*Aggravation  
PDM-11*

8875

OFFICE OF GENERAL COUNSEL

B-190332

JAN 15 1979

*[Claim for Commuting Expenses Incurred by Reassignment]*

Mr. Edward F. Praxel  
S. 800 Steen Road  
Veradale, Washington 99037

Dear Mr. Praxel:

This refers to our discussion last month concerning the action taken by the General Accounting Office in denying your claim for travel expenses incurred in commuting between your place of employment in Edzell, Scotland, and Harrogate, England.

At that time, I said I would review our file to ascertain whether further action by this Office was warranted. I have completed review of the file bearing in mind in particular, (1) your view of the illegality of the reassignment to Edzell and (2) the conclusion reached by the servicing CPO at Mildenhall in favor of reimbursement to you on the basis of a TDY reassignment at Edzell.

Initially, I wish to point out that it is not within the jurisdiction of the General Accounting Office (GAO) to review the merits of agency grievance decisions. Further, in settling claims and rendering decisions our Office must determine whether appropriated funds of an agency are available for payment of the items for which reimbursement is claimed. In that regard 31 U.S.C. § 628 provides that "Except as otherwise provided by law, sums appropriated for the various branches of expenditures in the public service shall be applied solely to the objects for which they are respectively made, and for no others." Also, the Constitution provides that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." U.S. Const., art I, sec. 9. One other pertinent rule of law is the well established one that the Government is not bound by the erroneous actions of its agents, even though the agent himself may have been unaware of the limitations upon his authority. Federal Crop Insurance Corp. v. Merrell, 332 U.S. 380, 384.

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Even viewing your reassignment to Edzell as illegal and the delay in authorizing you a living quarters allowance as having caused the commuting expenses which you claim, this Office in its decision of April 26, 1978, B-190332 was required to disallow your claim. As stated therein, in the absence of an authorization for commuting expenses in circumstances such as your case, this Office is without legal authority to direct an agency to use its appropriated funds for reimbursement of such expenses. This is so irrespective of the legality or illegality of the reassignment to Edzell. It is one of many cases that we have been required to disallow notwithstanding the loss to the employee. We are not aware of a remedy under present law that would permit this Office to conclude otherwise than we did in our April 26th decision. I regret to advise you of this conclusion, but I trust that you will appreciate that our Office does not have jurisdiction to direct payments which are not authorized by law.

Sincerely yours,

**F. H. BARCLAY, JR.**

F. H. Barclay, Jr.  
Associate General Counsel