



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Dr. Alejandro A. Gonzalez

File: B-256897

Date: September 23, 1996

DIGEST

An employee who was authorized to use his privately owned automobile (POV) for travel on official business as a matter of personal preference, instead of using a government-furnished automobile, was entitled to reimbursement at a rate of 18 cents per mile based on the average cost of using a government automobile. When his POV broke down while he was traveling on official business, he elected to return home by commercial airline. The agency correctly limited his reimbursement to the authorized 18 cents mileage rate for travel rather than the higher actual cost he incurred traveling by air. While an employee whose use of a POV for official travel is authorized as advantageous to the government may be reimbursed for extra travel expenses incurred due to breakdown of the POV, this employee's use of POV was not on that basis, and thus the extra expense incurred is considered a personal matter, and the government's obligation is limited to the 18 cents mileage rate authorized under applicable regulations.

DECISION

This is in response to a request for a decision from an authorized certifying officer as to whether an employee who was authorized to use his privately owned vehicle (POV) in lieu of a government automobile for temporary duty travel (TDY) may be reimbursed for the extra expenses he incurred to return from a TDY assignment by commercial airline due to the breakdown of his POV enroute.¹ For the reasons set out below, reimbursement is not authorized.

BACKGROUND

Dr. Alejandro A. Gonzalez, an employee of the Food Safety and Inspection Service of the Department of Agriculture, was detailed in July 1991 from his official duty

¹The request for decision was submitted by the Authorized Certifying Officer, Department of Agriculture, Office of Finance and Management, National Finance Center, New Orleans.

station in Sequin, Texas, to perform TDY in Wichita Falls, Texas. The agency states that Dr. Gonzalez was a "high mileage" driver authorized to travel via POV at a special rate of 18 cents per mile.

While enroute via POV from his residence in Beeville, Texas, to Wichita Falls, Dr. Gonzalez's automobile sustained major mechanical problems in Hillsboro, Texas. As a result, he left his POV in Hillsboro for repairs and obtained permission from his area office to rent an automobile and continue his trip to Wichita Falls. Upon completion of his TDY in Wichita Falls, he returned to Hillsboro to pick up his POV. However, the repairs had not been completed, so he elected to continue to his residence via commercial airline and have his wife pick him up at the airport. For the portion of his travel from Hillsboro to Beeville, Dr. Gonzalez claimed reimbursement for the cost of the air fare (\$143.00) plus a mileage allowance for his wife's roundtrip to pick him up from the airport (\$25.20). The agency limited his reimbursement to constructive mileage at 18 cents per mile for the distance from Hillsboro to Beeville as though he had traveled by POV (\$51.66), and asks us whether it may reimburse the additional amount Dr. Gonzalez claims.

ANALYSIS AND CONCLUSION

It has long been held that a mechanical breakdown of an employee's automobile and expense incurred due to the resulting delay in travel is not incident to official duty but personal to the employee and not compensable by the government. 20 Comp. Gen. 120 (1940). However, an exception to this rule has been made where the employee's use of a POV for the official travel has been authorized based on a determination that it is advantageous to the government. 42 Comp. Gen. 436 (1963), modifying 20 Comp. Gen. 120, supra. In cases in which such a determination has been made as to the use of the POV, we have held that additional per diem may be paid for the delay incurred due to the breakdown of the POV, and/or reimbursement may be made for expenses incurred returning home by an alternate mode of transportation, provided the agency finds any delay incurred was reasonable and the traveler's actions were in accord with administrative instructions. 42 Comp. Gen. 436, supra.; Harry Kushner, B-186829, Jan. 27, 1977; and Dennis Stafford, B-256331, Feb. 1, 1995.

Under applicable provisions of the Federal Travel Regulation (FTR), 41 C.F.R. § 301-2.2(d)(3), use of a POV for official travel shall be authorized only "when its use is advantageous to the Government," and a determination that use of a POV is advantageous to the government is to be preceded by a determination that "transportation by common carrier, a Government-contract rental automobile, or Government-furnished transportation is not available or would not be advantageous

to the Government."² An exception to these rules is provided by FTR § 301-2.2(e) which applies to "permissive" use of a POV when an employee uses the POV as a matter of "personal preference" and such use is compatible with the performance of official business, although not determined to be advantageous to the government under § 301-2.2(d)(3). Such permissive use may be authorized or approved provided that reimbursement is limited in accordance with FTR Part 301-4.

In Dr. Gonzalez's case, his use of a POV for official travel was not authorized based on a determination that it was advantageous to the government per FTR § 301-2.2(d)(3), in which case he would have been entitled to reimbursement at the rate of 25 cents per mile.³ Dr. Gonzalez's use of the POV as a "high mileage driver" apparently was permissive, based on FTR Part 301-4 under which a POV may be authorized for official travel instead of a government-furnished automobile even though the government-furnished automobile would be more advantageous to the government. FTR § 301-4.4(a). Under these provisions, when an employee who is expected to perform extensive automobile travel on official business elects to use a POV rather than a government-furnished automobile and otherwise meets the terms of the regulation, the employee's reimbursement is based on the average mileage cost for the use of a government-furnished automobile, which was 18 cents per mile at the time of Dr. Gonzalez's travel. FTR § 301-4.4(b).⁴

Since Dr. Gonzalez's use of his POV was at his election as a matter of personal preference, and not because it was determined advantageous to the government, his case does not fall within the exception to the general rule recognized in the cases discussed above. Therefore, the extra expense Dr. Gonzalez incurred as a result of his decision to return home by commercial airline because the repairs to his POV

²See also the discussion of these regulatory provisions in 56 Comp. Gen. 131, 134-136 (1976).

³The 25 cent rate, applicable at the time in question, was established by FTR § 301-4.2(a), pursuant to 5 U.S.C. § 5704(a), which provides authority to establish such a mileage rate for use of a POV authorized or approved "as more advantageous to the Government."

⁴This provision implements 5 U.S.C. § 5704(c), which specifically provides that in any case in which an employee who is engaged on official business chooses to use a POV in lieu of a government vehicle, payment on a mileage basis is limited to the cost of travel by a government vehicle.

had not been completed must be considered a personal matter, and the government's obligation to him is limited to the 18 cents mileage allowance authorized by the agency for his travel pursuant to FTR § 301-4.4(b), supra. Because he has been reimbursed on this basis, he is due no more.

/s/Seymour Efras
for Robert P. Murphy
General Counsel