



Comptroller General
of the United States
Washington, D.C. 20548

Decision

MP

Matter of: Russell J. MacAfee, et al.
File: B-243393.2
Date: April 10, 1992

DIGEST

Navy employees claim mileage at their temporary duty station in order to obtain meals. The employees' claims are denied since the record supports the agency's determination that the claims are not allowable as a necessary expense of travel since adequate restaurant facilities were available in the immediate vicinity of the temporary duty station. Although the employees' travel orders authorized such mileage, this authorization was of no effect because it is contrary to a specific provision in the governing Federal Travel Regulation.

DECISION

A decision has been requested as to whether Messrs. Russell J. MacAfee, Roberto A. Tapia, and Garland S. Witcher III, may be reimbursed mileage expenses incurred in order to obtain meals while at their temporary duty station.¹ The named employees, whose official duty station is Cherry Point, North Carolina, were assigned temporary duty at New River, North Carolina, for the period December 4-10, 1990. Their travel orders issued by the Commanding Officer authorized mileage to obtain meals up to 5 miles one way. Each employee claims 10 miles for varying numbers of round trips to obtain meals.

The Commanding General (Disbursing Officer), of the employees' installation, Marine Corps Air Station, Cherry Point, after reviewing the facts of record disallowed the claims for mileage to obtain meals, notwithstanding the mileage authorization in the travel orders, noting that four public national-franchise-type restaurants are located at

¹This decision was requested by Lieutenant Colonel J.C. Hajduk, Commanding Officer, Marine Corps Air Station, Naval Aviation Depot, Department of the Navy, Cherry Point, North Carolina, and submitted through the Defense Finance and Accounting Service.

the temporary duty station in New River that could have been utilized by the employees.

The Joint Travel Regulations (JTR), vol. 2, para. C2154 (Change No. 313, Nov. 1, 1991), contain a general provision under which an agency may authorize a mileage allowance to an employee on TDY within the immediate vicinity of a TDY station. This provision confers discretion upon the agency to determine whether transportation by privately owned conveyance is advantageous to the government. Ordinarily we will not interfere with an agency's exercise of such discretion. See e.g., Porter Billingsley, B-226463, May 14, 1987; Leighton E. Johnson, B-190711, Aug. 14, 1978.

However, the JTR provision is subject to the specific statutory regulation promulgated in the Federal Travel Regulation (FTR) 41 C.F.R. § 301-2.3(b) (1991). This provision limits the authority to reimburse employees for the expense of daily travel to obtain meals to situations where the nature and location of the work at the temporary duty station are such that suitable meals cannot be obtained there. The provision in the FTR is controlling and must be given effect. In this regard we have held that where restaurants offer meals adequate to the needs of most employees, travel expenses may not be allowed for employees who, for reasons of personal preference, obtain meals in distant locations. See Gene Daly, B-197386, June 15, 1983, and cases cited therein. See also Mary V. Embry, B-218984, Dec. 18, 1985, and cases cited therein.

Based on the information in the record we concur with the Commanding General's determination that the claims are not allowable as a necessary expense of travel since adequate restaurant facilities were available in the immediate vicinity of the temporary duty station. Therefore, under the facts of record there was no necessity to authorize daily travel to obtain meals. The provision in the travel order could not authorize what was precluded by the governing regulation. See Sheila H. Gillette, B-241952, Apr. 16, 1991.

Accordingly, the claims for reimbursement are denied.

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James F. Hinchman
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MILITARY PERSONNEL
Travel
Temporary duty
Travel expenses
Privately-owned vehicles
Mileage