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DECISION



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

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FILE: B-181178

DATE: February 18, 1975

MATTER OF: Andres Perez-Velez - Temporary Quarters Allowance

DIGEST:

Since employee's reemployment was effective more than 1 year after his separation by reason of transfer of functions, 5 U.S.C. 5724(a)(c) and implementing regulations which constitute authority for granting employee who is reemployed within 1 year of date of separation the same travel, transportation and relocation benefits payable to other employees incident to transfer of official station are inapplicable and employee is not entitled to reimbursement for temporary quarters subsistence expense.

This action is a reconsideration of Settlement Certificate Z-2479461, October 18, 1973, by the Transportation and Claims Division of the United States General Accounting Office, disallowing the claim of Mr. Andres Perez-Velez for additional reimbursement for temporary quarters subsistence expense incident to Mr. Perez-Velez's reporting to his first official duty station at Corpus Christi, Texas as an employee of the Department of the Navy and holding Mr. Perez-Velez to be indebted to the United States in the amount of \$1,965.86 due to an erroneous payment for temporary quarters subsistence expense.

The settlement indicates that pursuant to Travel Order T-1018/72, dated July 6, 1971, which showed the purpose of travel as "New Appointee from Overseas Area" Mr. Perez-Velez was authorized temporary quarters subsistence expense for himself and his family, not to exceed 60 days. It further appears that Mr. Perez-Velez occupied temporary quarters in the Naval Air Station BOQ from July 12, 1971, until joined by his family on July 25, 1971, when the entire family moved into a local motel. Permanent quarters were occupied on September 4, 1971. Reimbursement had been made for temporary quarters subsistence expense in the amount of \$1,965.86. Mr. Perez-Velez claimed an additional \$317.00

In denying Mr. Perez-Velez's claim, our Transportation and Claims Division concluded that paragraph C8254 of Joint Travel Regulations, Volume 2, effective January 1, 1970, specifically precluded reimbursement of temporary quarters subsistence expense for a new appointee

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assigned to a first duty station, a category to which it appeared Mr. Perez-Velez belonged. Accordingly, it was determined that although reimbursement was authorized by Mr. Perez-Velez's travel orders, the payment was erroneous and the matter was reported for appropriate collection action.

In the request for reconsideration it was for the first time brought to our attention that Mr. Perez-Velez was separated, effective June 26, 1970, due to transfer of function. We are also informed that on June 23, 1971, Mr. Perez-Velez executed a transportation agreement for reemployment at the U. S. Naval Air Station, Corpus Christi, Texas. This agreement provided that in order for Mr. Perez-Velez to be reimbursed for travel and transportation of himself and immediate family and movement of household goods that he remain in the employment of the agency for 12 months beginning with the date he reported for duty at his new duty station. The date Mr. Perez-Velez reported for duty at his new duty station would be the date of reemployment. On July 6, 1971, travel orders were issued authorizing Mr. Perez-Velez's travel to Corpus Christi, Texas, reporting on or about July 12, 1971.

Section 5724a(c) of title 5, United States Code, reads:

"(c) Under such regulations as the President may prescribe, a former employee separated by reason of reduction in force or transfer of function who within 1 year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) and (b) of this section, in the same manner as though he had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated." (Emphasis added.)

Section 1.3a(7) of Office of Management and Budget Circular No. A-56, Revised June 26, 1969, implementing 5 U.S.C. 5724a(c) reads:

"(7) A former employee separated by reason of reduction in force or transfer of function who, within one year of the date of separation, is reemployed by a department for a nontemporary appointment effective on or after July 21, 1966, at a different

permanent duty station from that where the separation occurred, may be allowed and paid the expenses and other allowances (excluding nontemporary storage when assigned to an isolated permanent duty station within the continental United States) in the same manner as though he had been transferred in the interest of the Government to the permanent duty station where reemployed, from the permanent duty station where separated, without a break in service, and subject to the eligibility limitations as prescribed in these regulations."

Section 5724a(c) of title 5, United States Code, and the implementing regulation cited constitute authority for granting an employee who is separated by reason of a transfer of function and is reemployed by a nontemporary appointment within 1 year after the date of separation the same travel, transportation and relocation benefits that are payable to an employee incident to a transfer of official station. Even though Mr. Perez-Velez executed a transportation agreement on June 23, 1971, Standard Form 50 entitled Notification of Personnel Action indicates that the effective date of Mr. Perez-Velez's reappointment was July 13, 1971, more than 1 year after his separation on June 26, 1970. Since Mr. Perez-Velez's reemployment was not effective until July 13, 1971, the provisions of 5 U.S.C. 5724(a) are not applicable.

Accordingly, our settlement of October 28, 1973, is reaffirmed.


Acting Comptroller General
of the United States