

**DECISION**

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

FILE: B-167022

DATE: JUL 12 1976

MATTER OF: NOAA Ship DISCOVERER - Change of  
Home Port

## DIGEST:

Officers and crew notified of change of vessel's home port from Miami, Florida, to Seattle, Washington, while on duty aboard ship in Seattle, may be reimbursed for round-trip travel from Seattle to Miami for purpose of arranging for and effecting transportation of vehicles, household effects and families and the sale of residences. B-167022, June 18, 1969, and similar decisions will no longer be followed.

On behalf of the National Oceanic and Atmospheric Administration (NOAA) employees assigned to the NOAA Ship DISCOVERER, the Acting General Counsel of the Department of Commerce on December 10, 1975, requested reconsideration of our decisions B-167022, June 18, 1969, and July 26, 1971. The request was made because the home port of the DISCOVERER was changed from Miami, Florida, to Seattle, Washington, while the ship was at Seattle and the cited decisions would prevent the travel of the crew at Government expense to their old station to attend to the personal business of moving their families and household goods to the new station.

By Public Law No. 93-322 funds were appropriated to be used for reactivation and equipment costs associated with placing the deactivated NOAA Ship DISCOVERER back in service. The DISCOVERER, then home ported in Miami, Florida, underwent reactivation at Norfolk, Virginia, and on March 24, 1975, proceeded to Seattle, Washington, and thence to the Bering Sea to conduct energy related research. The reactivated ship was manned by officers and crew members from both the Miami and Norfolk areas.

On July 3, 1975, the Director of the National Ocean Survey directed a change in the DISCOVERER's home port from Miami to Seattle effective August 31, 1975. Although the vessel is itself technically designated as the permanent duty station of its officers and crew, NOAA considers the home port of the vessel

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to be likewise the employees' permanent duty station for the purpose of determining transfer entitlements. Thus, when the officers and crew received notice in Seattle of the change of the DISCOVERER's home port to that location, they were likewise notified of the prospective change in their duty stations to Seattle, effective August 31, 1975, for administrative purposes.

The Acting General Counsel of the Department of Commerce points out that, by virtue of our holding in B-167022, June 18, 1969, the employees assigned to the DISCOVERER are not entitled to be returned at Government expense to their former duty stations for the purpose of moving their families, vehicles, and household effects to the vessel's new home port. He suggests that the decision is inequitable and, as evidence of its harshness, points to Private Law No. 93-50, December 29, 1973, whereby Congress authorized payment of the transportation expenses of the individuals whose claims were denied by us on June 18, 1969.

The situation in B-167022, June 18, 1969, was similar to that involved in the change of the DISCOVERER's home port. That case involved an employee assigned to permanent duty aboard the FAIRWEATHER, a ship of the Coast and Geodetic Survey, Environmental Science Services Administration, Department of Commerce (now a part of NOAA). He had served as a member of the FAIRWEATHER's crew for the purpose of accompanying it to its new home port in Seattle, Washington. Thereafter he returned to Jacksonville, Florida, where he was assigned aboard another vessel, the RANIER, for the purpose of likewise delivering it to Seattle. Upon the RANIER's arrival in Seattle, the employee was assigned to the FAIRWEATHER for permanent duty and his duty station was changed from Norfolk, Virginia, to Seattle, Washington, to accord with its home port. Thereafter, he returned to Norfolk at his own expense to arrange for transportation of his family and household effects. He returned with his family from Norfolk to Seattle and for that trip claimed per diem for himself as well as mileage at a rate reflecting the fact that he traveled with his family. In holding that the per diem and excess mileage attributable to his own travel should be recovered, we stated:

"We have consistently held that an employee who is notified of a change of his official station while away from his old official station is not

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entitled to be returned at Government expense to the old station for the sole purpose of attending to the personal business of moving his family and household effects to the new station. B-140119, April 6, 1960; B-107864, February 28, 1952. In this case the employee traveled to his new official station on Government business. The fact that his family was not able to accompany him on such travel is not considered as justifying payment by the Government of a second trip for the employee from the old and to the new official station."

See also B-167022, July 26, 1971, applying the above principle to unmarried members of the crew.

Private relief legislation was ultimately obtained on behalf of members of the FAIRWEATHER's crew as well as crew members of three other vessels. In enacting Private Law No. 93-50, December 29, 1973, 87 Stat. 1115, to allow payment of mileage traveled in the employees' privately owned vehicles and per diem for actual travel time between the duty stations, the House of Representatives expressed its belief that our holding in B-167022, June 18, 1969, had failed to take into account the equities of the situation. House Report No. 93-174, 93d Cong., 1st Sess., 2.

The holding in B-167022, supra, is based on a line of decisions to the effect that when an employee is notified of a permanent change of station to the point where he is then on temporary duty, he is no longer entitled to per diem in connection with that assignment. 23 Comp. Gen. 342 (1942); 24 id. 593 (1945); 30 id. 94 (2nd decision) (1950); B-160012, October 27, 1966; B-175883, June 16, 1972. Based on that line of cases and the attendant ruling that the transfer of an employee to the place where he is on temporary duty is effective from the date he receives notice of transfer, we have held that such an employee has perforce traveled to the new duty station at Government expense and that the Government's obligation to transport him to that location as an incidence of transfer has thus been satisfied. B-74659, September 30, 1948; B-107864, February 28, 1952; B-140119, April 6, 1960. While the rule expressed in B-167022, supra, is consistent with these cases and is an extension of the above-cited holdings with respect to per diem at the new station, we

are now of the view that the matter of an employee's travel entitlements on transfer involves considerations distinct from those pertaining to per diem on temporary duty.

The ruling that an employee may not be paid per diem for temporary duty after notification that he is to be transferred to the place at which he is then performing temporary duty is based on an interpretation of the statutory provision, now contained at 5 U. S. C. § 5702(a) (1970), as amended by Public Law 94-22, May 19, 1975, 89 Stat. 84, which prohibits an employee from receiving per diem while at his designated official station. See Federal Travel Regulations (FPMR 101-7) para. 1-7.6a (May 1973). We have held that whether or not a particular location is an employee's permanent duty station is not merely a matter of administrative designation but is a question of fact to be determined from the orders, the character of the assignment, and the nature of the duty. 31 Comp. Gen. 289 (1951); 33 id. 98 (1953). Where an employee is on temporary duty at a place which is to become his permanent duty station and at which he is to remain, that place in fact becomes his permanent duty station when he receives notice of the impending transfer. Under 5 U. S. C. § 5702, as amended, he may not thereafter be paid per diem while at that location. However, incident to transfer to a place within the United States or other designated area, he and his family may be authorized temporary quarters subsistence expenses for a maximum period of 30 days pursuant to 5 U. S. C. § 5724a(a)(3) (1970).

The matter of an employee's entitlement to transportation in connection with a relocation involves considerations beyond the question of the location of his permanent duty station. Under sections 5724 and 5724a of title 5 of the United States Code, a transferred employee has various entitlements, including transportation for his family and household effects to the new duty station and reimbursement of certain real estate transaction expenses. While it might be possible for an employee to arrange for the transportation of his family and household effects and the sale of his former residence by mail or telephone, we recognize that many necessary arrangements for relocating an entire household cannot always be accomplished from the new duty station and may be done more satisfactorily when the employee is physically present at his old station. We do not believe it was intended that employees be so restricted in availing themselves of the relocation allowances granted them by Congress for the express purpose of alleviating the burdens that are involved in uprooting a family and relocating

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it to a different geographic area. If there had been no transfer of the home port of the DISCOVERER, the officers and crew members would have been returned at Government expense to their duty stations at Miami, Florida.

In view of the above we shall no longer follow B-167022, June 18, 1969, and other decisions holding that an employee may not be returned to his former station at Government expense when he is notified while at his temporary duty station that he is transferred thereto.

Under such circumstances we believe the officers and crew members of the DISCOVERER may be reimbursed for round-trip travel expenses from Seattle to Miami for the purpose of arranging for and effecting the transportation of their vehicles, household effects, and families and the sale of their residences.

Paul G. Dembling

For,

Comptroller General  
of the United States