



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

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B-176841

November 27, 1972

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Dear Mr. Secretary:

We refer further to letter dated July 31, 1972, from the Assistant Secretary of the Navy (Manpower and Reserve Affairs), forwarded here by letter of August 12, 1972, from the Per Diem, Travel and Transportation Allowance Committee (Control No. 72-32), requesting a decision regarding the entitlement of Mr. Norman J. Mulloy, a former member of the U. S. Navy, to reimbursement for the cost of his commercial air transportation from Saigon, Republic of Vietnam to San Francisco, California, in March 1971.

By Standard Transfer Order No. 4906-70, September 16, 1970, Commander, U.S. Naval Support Activity, Saigon, Personnelman First Class Norman J. Mulloy, USNR, was ordered to proceed to an intermediate station, Naval Station Subic Bay, Republic of the Philippines, for separation processing with his home of record as his ultimate destination. He was directed to travel by Government aircraft from Saigon to the Republic of the Philippines.

At U.S. Naval Station Subic Bay, Petty Officer Mulloy was released from active duty and discharged on October 16, 1970. He was paid mileage allowances for travel from that station to Clark Air Force Base, Republic of the Philippines, the aerial port of embarkation for the United States, and from McChord Air Force Base, Washington, port of debarkation in the continental United States, to Grosse Ile, Michigan, the place of acceptance for enlistment, to which point he elected to receive mileage allowances. Government transportation was available from Clark Air Force Base to the continental United States.

However, upon discharge, the former member traveled at personal expense to Saigon, Republic of Vietnam, married, and then sought Government transportation from there to the United States. Reportedly, because such transportation would have required separation from his family during travel, in March 1971 Mr. Mulloy utilized an American commercial airline for travel from Saigon to San Francisco, California, after having been assured by Government personnel that he would be reimbursed for his commercial air fare.

Mr. Mulloy's claim for reimbursement for his travel from Vietnam to the United States, which was denied by the Navy Regional Finance Center,

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Washington, D. C. on September 28, 1971, was received in this Office on April 10, 1972. The claim also was denied by our Transportation and Claims Division settlement of April 28, 1972, in which it was stated that, "Inasmuch as your order of September 16, 1970, which directed your separation at the Naval Station Subic Bay, Philippines, at your request, also directed your travel by Government air, if available, it must be assumed that any further transoceanic travel to which you may have been entitled was also limited to Government air, if available."

Regarding the above statement, the Assistant Secretary of the Navy refers to paragraph M4159-4(a) of the Joint Travel Regulations, and indicates that the disallowance may have been in error, as it was based not on the directed use of Government transportation after separation from the service but on the assumption that such direction made in regard to travel to the separation activity, also was applicable to subsequent travel. Also, reference is made to our decision B-173250, June 30, 1971, in which reimbursement was authorized under somewhat similar circumstances.

In accord with 37 U.S.C. 404(a), paragraph M4157-1b of the Joint Travel Regulations provides that a member who is separated from the service or relieved from active duty outside the United States, will be entitled to travel allowances as provided in paragraph M4159 of the regulations, subject to the provision of paragraph M4157-6, that entitlement to transoceanic travel will terminate in any case where such travel is not completed within one year following separation or relief from active duty.

Paragraph M4159-1 authorizes allowances, including mileage, for the official distance between the old (last) permanent station and the appropriate port of embarkation serving that station. Similar allowance is authorized for the official distance from the appropriate port of debarkation to the new station (place to which the member is to receive mileage upon separation or discharge). Also authorized is transportation by Government aircraft or vessel, if available, otherwise Government procured transportation or reimbursement for transportation procured at personal expense for the transoceanic travel involved (see subparagraph 4).

Paragraph M4159-4a further provides that when Government transportation is available and when travel is directed by Government transportation, and the member performs transoceanic travel by another mode of transportation at personal expense, no reimbursement for the transoceanic travel

is authorized. When travel by Government transportation is authorized (as distinguished from directed) and the member performs transoceanic travel by another mode of transportation at personal expense, the member is entitled to reimbursement for the cost of the transportation utilized not to exceed the applicable tariff charge which the sponsoring service would have been required to pay for the available Government transportation.

In 41 Comp. Gen. 100 (1961) we said that where a member is not expressly directed by orders to use Government transportation he is to be regarded as having been authorized to use such transportation within the contemplation of our decision at 40 Comp. Gen. 482 (1961) which concluded that members of the uniformed services who are authorized, as distinguished from specifically directed, to travel by Government conveyance, and who do not use available Government transportation but use commercial transportation at personal expense, may be reimbursed for the cost of such travel on the basis of the standard prices which the sponsoring service would have been required to pay had the overseas travel been by Government transportation.

In decision B-173250, supra, reimbursement for overseas travel for the amount of the charge to the Government for such travel was approved where the member was directed to travel from Germany via Government air to the United States for the purpose of retirement from the service and he chose Bamberg, Germany as his home of selection, traveling there via commercial air, his orders being silent regarding the mode of travel from the place of his retirement to his home of selection.

In view of the above, in the absence of orders directing the use of Government transportation for overseas travel from the separation location to the place of the member's acceptance for enlistment, such travel by Government conveyance is regarded as having been authorized, rather than directed. Consequently, the member may be reimbursed for commercial air transportation as provided in paragraph N4159-4a of the regulations.

Therefore, we are instructing our Transportation and Claims Division to allow reimbursement for travel performed by Mr. Mulloy from Saigon, Republic of Vietnam, to San Francisco, California, in March 1971, such reimbursement not to exceed the cost to the Navy to

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transport him by Government air from Clark Air Force Base, Republic of the Philippines, to McChord Air Force Base, Washington, subsequent to his discharge from the U.S. Navy on October 16, 1970, at U.S. Naval Station Subic Bay, Republic of the Philippines.

Sincerely yours,

**R.F.KELLER**

Deputy Comptroller General  
of the United States

The Honorable  
The Secretary of the Navy