

PLM-1

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

Entitlement to Reimbursement for Commuting Expenses ⁹⁴⁶²

FILE: B-192838

DATE: March 16, 1979

MATTER OF: Gretchen Ernst - Claim for Mileage
to Temporary Duty Assignment

- DIGEST:
1. Navy employee was detailed away from her official duty station to work for another Navy component for a period not to exceed 14 months. Assignment may be considered temporary duty and employee authorized mileage for commuting between residence and temporary duty assignment within discretion of agency. Navy determination should be based on duration of detail and cost of mileage as compared to relocation expenses which would be paid under transfer orders and subsistence expense payable if employee remains at temporary duty station. See 36 Comp. Gen. 795 (1957).
 2. Navy employee who voluntarily commutes daily to temporary duty assignment may be allowed travel expenses not to exceed the subsistence expenses she could claim had she remained at the temporary duty station. See 50 Comp. Gen. 44 (1970).
 3. The question of whether an assignment to a particular location should be considered a temporary duty assignment or a permanent change of duty station is a question of fact to be determined from the orders directing assignment, the duration of the assignment, and the nature of the duties to be performed. See 33 Comp. Gen. 98 (1953).

This action is in response to a request for an advance decision from Jean M. Helfrich, Director, Command and Administration, Financial Management Office, Naval Sea Systems Command, Department of the Navy, reference 09BF/JMH Ser. 181,

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concerning the entitlement of Ms. Gretchen Ernst, a Navy employee, to reimbursement of her commuting expenses while she is performing duty for a different Navy component at a different location.

The report from the agency states that Ms. Ernst is employed by the Naval Sea Systems Command in Arlington, Virginia, and that effective July 2, 1978, Ms. Ernst was detailed for approximately 14 months to a different Navy component, the Military Sealift Command, in Baltimore, Maryland. Although no official transfer orders were prepared, Ms. Ernst was apparently advised by Naval Sea Systems Command that she would be authorized reimbursement for a permanent change of station or reimbursement for temporary duty in Baltimore if, based upon a cost comparison, the latter was more advantageous to the Government. Ms. Ernst has instead requested reimbursement for her daily mileage for commuting between her residence in Oakton, Virginia, and Baltimore.

The agency asks whether Baltimore is to be considered the employee's permanent or temporary duty station and whether there are any guidelines as to when commuting to a different duty location becomes, in fact, daily commuting to a permanent duty station. The agency points out that under our decisions an employee may not be reimbursed for travel from the employee's residence to his permanent duty station. On the other hand, the agency questions whether Ms. Ernst would be entitled to mileage under the applicable regulation permitting reimbursement for voluntary return travel from the employee's temporary duty station to his permanent duty station or place of abode.

Ms. Ernst argues that a permanent change of station would be more costly to the Navy than temporary duty expenses and that her mileage claim of \$20.40 per day is more advantageous to the Government than the \$41 per day actual subsistence expense reimbursement which she could claim if she were to remain in Baltimore for the duration of the assignment.

As the agency has pointed out, our decisions have long held that the location of an employee's official duty

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station is a question of fact, not limited by administrative designation, and it is the place where the employee performs a major part of his duties and is expected to spend a greater part of his time. 32 Comp. Gen. 87 (1952); and B-171991, April 14, 1971. Furthermore, we have held that there is no authority for the reimbursement of travel expenses between the employee's residence and his official duty station or place of business. See Thomas L. Smith, B-188045, May 9, 1977, and decisions cited therein.

On the other hand, we have held that where an employee is assigned to temporary duty at a location within or nearby his official duty station and when the employee will eventually return to his permanent duty station, he may be reimbursed for the cost of travel between his residence and the temporary duty location subject to the discretion of the administrative agency. See 36 Comp. Gen. 795 (1957); B-177555, February 22, 1973; and B-174667, February 8, 1972.

Finally, as the agency has pointed out, an employee who is performing temporary duty may voluntarily return to his permanent duty station or place of abode on nonworkdays or after the close of business on workdays and may be reimbursed for round-trip travel expenses not to exceed what would have been allowed for per diem or actual expense allowance had the employee remained at the temporary duty station. See Joint Travel Regulations (JTR), Vol. II, para. C4662. We have construed an earlier version of this regulation as permitting daily commuting to the temporary duty station. See 50 Comp. Gen. 44 (1970).

As to whether Ms. Ernst's assignment should be considered temporary duty or a permanent change of station, we note that the JTR provides, in para. C4455, as follows:

"PROLONGED ASSIGNMENTS

"When a period of temporary duty assignment at one place will exceed 2 months, consideration will be given to changing the employee's permanent duty station unless there is reason

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to expect the employee to return to his permanent duty station within 6 months from the date of initial assignment or the temporary duty expenses are warranted in comparison with permanent change-of-station movement expenses." (Emphasis added.)

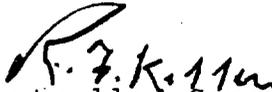
If the agency in this case had decided to permanently change Ms. Ernst's duty station, then we believe Ms. Ernst would be bound by our decisions which hold that an employee may not be reimbursed for travel between his residence and official duty station. See Smith, supra. However, no agency determination has been made to date.

In the present case it appears that a temporary duty assignment, where the agency authorizes use of the employee's automobile for travel to and from the temporary duty station, would be less costly to the agency than a permanent change of duty station. Under these circumstances, we would have no objection if the agency were to approve the payment of mileage incident to Ms. Ernst's temporary assignment to Baltimore. See B-168497, December 29, 1969. Similarly, if the agency were to determine that Ms. Ernst's expenses for daily voluntary return travel under para. C4662 of the JTR would be less than the cost of a permanent change of station, we would have no objection to reimbursement of Ms. Ernst's travel expenses in this manner.

Finally, the agency asks whether there are any general guidelines to be applied in determining whether an assignment to a particular location would be considered temporary duty or a permanent change of station. Our decisions have held that this question is one of fact to be determined from the orders directing the performance of duty and that, when necessary, the answer would depend upon the character of the assignment, particularly its duration and the nature of the duties. See 33 Comp. Gen. 98 (1953); and B-174667, supra. Since each case would be decided on its own facts and since our authority to issue decisions to disbursing officers is limited to questions involving specific vouchers rather than general questions, we are unable to provide more specific guidance on this issue.

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Accordingly, Ms. Ernst's entitlement should be considered and paid consistent with the above discussion.


Deputy Comptroller General
of the United States