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PLM-1
Mr. V. B. P.

DECISION



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

FILE: B-195245

DATE: September 12, 1979

MATTER OF: Milton G. Parsons

DIGEST: Air Force employee in Canal Zone, who was entitled to travel and transportation costs to home of record, transferred to Forest Service in Oregon. Air Force payments of travel and transportation expenses to new station before effective date of Forest Service appointment were proper to extent that they did not exceed constructive costs of travel and transportation to home of record. Principles of 46 Comp. Gen. 628 are not limited to transfers within the Department of Defense.

This action is in response to a request by the Secretary of Agriculture for an advance decision concerning the [authority of the Department of the Air Force to pay the travel and transportation costs involved in the permanent change of station] transfer of Mr. Milton G. Parsons. AGC00042

While Mr. Parsons was employed at Howard Air Force Base, Canal Zone, he accepted an offer to transfer to the Siuslaw National Forest, U.S. Forest Service, Department of Agriculture, Corvallis, Oregon, DLG02736
Mr. Parsons served in the Canal Zone under an agreement providing for return transportation to his home of record in Bozeman, Montana, and he satisfactorily completed his tour of duty with the Air Force. The Air Force initially agreed to pay Mr. Parsons' travel costs and issued a travel authorization dated January 23, 1978. His travel was to begin on February 20 and the reporting date at his new station was indicated as February 26. The Forest Service issued a travel order authorizing allowable relocation expenses not covered by the Air Force order. That order also showed February 26, 1978, as the reporting date. Subsequently, after Mr. Parsons' family had moved pursuant to the order, the Air Force decided it was not authorized to pay the travel costs. While it paid the relocation expenses of Mr. Parsons and his dependents, it separated Mr. Parsons on February 20, 1978, and requested the Forest Service reimburse it for the expenses already paid. DLG02735

Based on its interpretation of 5 U.S.C. § 5724(e) (1976) and paragraph C1052-2b(1)(a), volume 2 of the Joint Travel Regulations

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(JTR), the Air Force contends that Mr. Parsons' "selection for employment" by the Forest Service prior to his return requires the Forest Service (the acquiring agency) to pay his travel costs. The Air Force believes that the holding in 46 Comp. Gen. 628 (1967) is not applicable since that decision dealt with employee transfers between agencies within the Department of Defense (DOD). We hereby hold to the contrary that that decision is not limited to transfers within DOD exclusively, and its principles are applicable in the instant case.

In 46 Comp. Gen. 628 we considered three proposals forwarded by the Assistant Secretary of Defense relating to the overseas travel expenses of employees transferred from one agency to another under DOD. After quoting sections 5722(a)(1) and (2) and 5724(d) and (e) of title 5 of the United States Code, we held:

"There is no doubt that if the employee is employed by the new (acquiring) agency prior to his return travel to the United States the provisions of 5 U.S.C. 5724(e) would preclude the old (losing) agency from paying any part of such travel and transportation expenses. We understand that the first two proposals submitted by the Assistant Secretary relate to actual transfers effected prior to the return of the employee to the United States. If such be the case, we know of no legal basis upon which any part of the return travel expenses can be paid by the old (losing) agency.

"Concerning the third proposal, it is our understanding that the employee would be returned to the place of his actual residence or some other point in the United States for separation. At the time of such return travel he would not have been employed by the new (acquiring) agency to which he later transfers. See 44 Comp. Gen. 767. In such a case it would be proper for the old (losing) agency to pay the expense incurred in traveling to the place of actual residence or some other selected point in the United States but not to exceed the constructive cost of travel to the place of actual residence." (Emphasis added.)

We have followed the principles of 46 Comp. Gen. 628 with respect to transfers to agencies other than those within the Department of Defense. Our decision B-170639, July 29, 1971, dealt with the travel expenses of Mr. Isaac Rodrigues incident to his transfer from the Agency for International Development, Saigon, Vietnam, to the Department of Housing and Urban Development, Washington, D.C. A second case, B-163364, June 27, 1968, concerned the travel costs of Mr. William Cantelo, who was transferred from his position as an Entomology Advisor with the Agency for International Development in Bangkok, Thailand, to an appointment with the Agricultural Research Service, Department of Agriculture, St. Croix, Virgin Islands. In both cases, we cited 46 Comp. Gen. 628 to permit the losing agency to pay for the employees' travel not to exceed the cost of travel to their homes of record.

Also, there is nothing in the language of 46 Comp. Gen. 628 to indicate an intent to limit that case to DOD transfers exclusively. In this connection section 5721 of the subchapter on travel and transportation expenses in title 5, of the United States Code, on which 46 Comp. Gen. 628 is based, defines "agency" to include any executive agency.

The record in the instant case indicates that Mr. Parsons was not employed by the Forest Service prior to his travel and, therefore, section 5724(e) as interpreted in the above decisions does not preclude the Air Force from paying for his travel costs. Therefore, to the extent that Mr. Parsons' travel and transportation costs to his new station at the Siuslaw National Forest do not exceed the constructive cost of travel and transportation to his original residence at Bozeman, Montana, at the time of his initial assignment, the Air Force payments were proper.

In view of the above, the Air Force should change Mr. Parsons' separation date to February 26, 1978, the date shown on the original travel orders, and withdraw its request for reimbursement of the travel and transportation costs which do not exceed the costs of relocation to Mr. Parsons' home of record.


Deputy Comptroller General
of the United States