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J. B. Bradford  
P. II

**DECISION**



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

FILE: B-195461

DATE: October 15, 1979

MATTER OF: Arthur W. Lindberg

*[Request For Reimbursement of Relocation Expenses]*

DIGEST:

Employee at Fort Monmouth, New Jersey, was assigned to University of Michigan for 1 year to obtain masters degree. Employee may be reimbursed for expenses of second car even though he was originally authorized to use only one car because agency later authorized use of second car as permitted by FTR paragraph 2-1.3. Employee may not receive additional reimbursement for shipment of household goods since he was properly paid at commuted rate. Reimbursement of per diem for spouse, real estate expenses, and miscellaneous expenses are not allowable since they are not authorized by 5 U.S.C. 4109.

*DLG-0300-3*

This decision is in response to an appeal by Mr. Arthur W. Lindberg from our Claims Division's settlement certificate (Z-2801587) of May 23, 1979, which disallowed his claim for certain relocation expenses and stated that travel advances covering those expenses should be collected.

In April 1972 Mr. Lindberg, an employee of the Avionics Laboratory at Fort Monmouth, New Jersey, was assigned to the University of Michigan so that he could obtain his master's degree. He returned to Fort Monmouth the next year following the completion of his studies. For his first move, he was advanced \$1,100, of which \$983.18 was approved on his settlement voucher. For his return trip he was advanced \$1,700 of which \$1,137.52 was allowed. Mr. Lindberg's claim arose because the Finance and Accounting Officer at Fort Monmouth disallowed the payment of his claim for his wife's per diem, expenses of purchasing a residence, the cost of settling an unexpired lease, miscellaneous expenses, mileage and tolls for a second car, and additional reimbursement for the shipment of his household goods. Our Claims Division upheld the determination of the Finance and Accounting Officer and denied Mr. Lindberg's claim for his wife's per diem, miscellaneous expenses, real estate expenses, and unexpired lease expenses on the basis of 5 U.S.C. 4109 and its implementing regulations, paragraphs C4102 and C3052 of Volume 2 of the Joint Travel Regulations (JTR). Mr. Lindberg's claim for reimbursement for the use of a second car was denied because his orders were retroactively modified to

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allow for the use of that car and we have held that orders may not be retroactively modified after travel has occurred to increase or decrease an employee's entitlements. Mr. Lindberg's claim for additional reimbursement for the cost of shipping his household goods was denied because our Claims Division found that he had been correctly reimbursed under the commuted rate system described in paragraph 2-8.3a of the Federal Travel Regulations (FTR).

Payment of travel and transportation expenses relating to extended periods of training is governed by 5 U.S.C. § 4109 (1970) which provides, in pertinent part, that:

"(a) The head of an agency \* \* \* May--

\* \* \* \* \*

"(2) pay, or reimburse the employee for, all or a part of the necessary expenses of the training \* \* \* including among the expenses the necessary costs of--

"(A) travel and per diem instead of subsistence under subchapter I of chapter 57 of this title \* \* \*;

"(B) transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying and unpacking under section 5724 of this title \* \* \* when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training \* \* \*."

The statutory provisions were implemented by paragraphs C4102 and C3052 of Volume 2 JTR. Those sections provide, in pertinent part, that:

"C4102 MOVEMENT INCIDENT TO TRAINING OR INSTRUCTION

1. GENERAL. A permanent change of station may be authorized for employees who are assigned for training in Government or non-Government facilities (see par. C3052). This authority may be used only when the estimated costs of round trip transportation for dependents and household goods are less than the estimated

aggregate per diem amount payable during the period of assignment at the training location. \* \* \* (Change 75, December 1, 1971)

"C3052 ATTENDANCE AT TRAINING COURSES

\* \* \* \* \*

"2. OTHER THAN TEMPORARY DUTY ASSIGNMENT

"a. General. To the extent of the authority provided in 5 U.S. Code 4109, which allows transportation of an employee's family and household goods in lieu of per diem payments, the conditions in subpars. b and c will apply.

The provisions of this paragraph do not authorize the following:

- "1. payment of per diem to employee's dependents for travel incident to training assignments under par. C4102;
- "2. round trip travel to seek permanent residence quarters incident to permanent duty travel;
- "3. payment of temporary quarters subsistence expenses incident to occupancy of temporary quarters in connection with permanent duty travel;
- "4. reimbursement of miscellaneous expenses associated with discontinuing residence at one location and establishing residence incident to permanent duty travel;
- "5. reimbursement for expenses incurred in connection with real estate transactions and unexpired lease.

"b. Transportation of an Employee's Family and Household Goods. If the estimated cost of round trip transportation of an employee's immediate family and household goods between the employee's official duty station and the training location is less than the aggregate per diem payments that the employee would

receive while at the training location, such round trip transportation at Government expense may be authorized in lieu of per diem payments. Such transportation will be in accordance with the provisions in this volume relating to permanent change-of-station movement (see par. C4102).

"c. Employee's Election of Type of Movement.

Consideration may be given an election of the employee concerned to be authorized a temporary duty assignment or a permanent change-of-station movement if allowable upon comparison of costs indicated in subpar. a. An initial determination to authorize a permanent change-of-station movement may be changed to a temporary duty assignment any time prior to the beginning of transportation. After transportation begins, the entitlement of the employee and obligations of the Government become fixed and cannot be changed thereafter (39 Comp. Gen. 140)." (Change 78, April 1, 1972)

When our Claims Division denied reimbursement of per diem for Mr. Lindberg's wife, the miscellaneous expense allowance, the real estate expenses, and the cost of settlement of an unexpired lease, it stated that the General Accounting Office had no authority to waive or modify the governing statute and regulations. Mr. Lindberg has asked that we forward his claim to the agency which has authority to change the regulations.

The Per Diem, Travel and Transportation Committee of the Department of Defense promulgates the Joint Travel Regulations but we feel that no purpose would be served by forwarding Mr. Lindberg's claims to that body. It is 5 U.S.C. 4109, not the regulations which implement it, which limits the entitlements of an employee on an extended training assignment.

While the use of the term "permanent change of station" in subparagraph C3052-2c may have created some confusion, travel for training is not ordinary permanent change of station travel entitling an employee to reimbursement for all the relocation expenses allowed for that type of move. Assignments for training are similar to temporary duty assignments in that at the time of the orders they contemplate that, upon completion of training, employees will return to the stations where they are located at the time orders are issued.

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or, in some instances, transfers to other permanent duty stations. However, because of the length of the training assignment it was determined that the employee should be reimbursed for the transportation of his family and household goods, benefits not authorized for temporary duty travel. These basic entitlements are outlined in 5 U.S.C. 4109 and the Joint Travel Regulations merely detail those entitlements. In this connection we note that, pursuant to a request by our Office, the Joint Travel Regulations were amended to clearly state employees assigned to training were entitled to allowance only as provided for in 5 U.S.C. 4109.

Mr. Lindberg suggests that his claim was denied because of the rigid application of the Joint Travel Regulations. These regulations, however, are binding on each Department of Defense component. He also points out that officials at Fort Monmouth gave him erroneous information regarding his entitlements. We have long held that even where a employee has been given erroneous information, the Government may not pay expenses to which the employee is not entitled under the law and regulations. In the absence of specific authority, the United States is not liable for the erroneous actions of its officers, agents or employees, even though committed in the performance of their official duties. 44 Comp. Gen. 337(1964); 54 id. 747 (1975) and court cases cited therein.

Mr. Lindberg states that the denial of his claim for mileage and tolls for a second car, which his wife drove, indicates that the Government's policy is discriminatory, favoring participation by single employees in Government training programs. Mr. Lindberg seems to assume that his claim for expenses of a second car was denied on the basis of some provision of the JTR prohibiting reimbursement for the use of a second car in extended training situations. There is no such provision. Mr. Lindberg's travel orders originally specified reimbursement for one privately owned vehicle. After completion of his training, Mr. Lindberg's return travel order was amended to allow reimbursement of two cars from Ann Arbor, Michigan to Fort Monmouth. Our Claims Division denied reimbursement for the second car on the basis of a long standing rule that orders may not be retroactively modified after performance of travel to increase or decrease the entitlements of an employee.

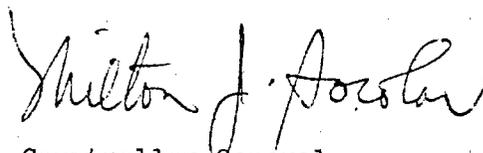
The cited rule is for general application. However, we have interpreted FTR paragraph 2-1.3 as allowing subsequent approval of travel by more than one privately owned vehicle (POV). See B-181355, July 29, 1974. Although that paragraph does not specifically refer to

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training situations, we see no reason why it should not apply, especially since POV expenses are one of the allowances provided by 5 U.S.C. 4109 and we know of no prohibition on the use of a second POV for travel to a training assignment. Fort Monmouth's modification of the travel order to authorize two cars was based upon 2-2.3e(i)(a) which provides that use of more than one privately owned vehicle may be authorized "i/f there are more members of the family than reasonably can be transported with luggage in one vehicle." In light of Mr. Lindberg's statement that both cars were fully packed with items that could not be transported by a commercial carrier, Fort Monmouth's determination appears to be reasonable. See B-172012, July 2, 1971. Therefore, Mr. Lindberg may be reimbursed at 6 cents a mile for two privately owned vehicles plus tolls and his indebtedness should be reduced accordingly.

Mr. Lindberg's final claim involves reimbursement for shipment of his household goods. He states that officials at Fort Monmouth recommended a moving company which they stated would charge commensurate with the allowable reimbursement. For both moves, however, his reimbursement, which was based on the commuted rate system described in FTR para. 2-8.3(a), was less than the actual cost of the moves. The commuted rate system is a system of approximation which, depending upon the variables in each system, will sometimes be favorable to an employee but in other circumstances may operate to his disadvantage. Where it does operate to the disadvantage of an employee there is no basis upon which the difference may be reimbursed. B-168088, November 5, 1969.

Thus, but for Mr. Lindberg's reimbursement for the expenses of travel in a second privately owned vehicle, we uphold the determination of our Claims Division. Reimbursement of the expenses for operating the second POV will be made in due course if otherwise proper.



For The Comptroller General  
of the United States