

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

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**FILE:** B-212687**DATE:** February 22, 1984**MATTER OF:** Carol S. Stanley - Relocation Expenses -  
Transfer for Employee's Convenience

**DIGEST:** A transferred employee's entitlement to relocation expenses depends upon a determination that the transfer is not primarily for the convenience or benefit of the employee. Our Office will not disturb an agency determination unless it is clearly erroneous, arbitrary, or capricious. Thus, we sustain an agency determination to deny relocation expenses to an employee who transferred from Washington, D.C., to Coeburn, Virginia, where the agency determined that the transfer was for the employee's own convenience since she voluntarily transferred to a lower graded position which was not subject to the agency's merit promotion plan. The fact that she was competitively selected for the position does not overturn the agency determination.

The issue in this decision is whether an employee's transfer was in the interest of the Government so that she may be reimbursed for relocation expenses in connection with the change of her permanent duty station. Under the analysis which follows, we hold that the employee's transfer must be characterized as being primarily for her own convenience or benefit. Therefore, the employee is not entitled to reimbursement for her relocation expenses.

Mr. John R. Nienaber, an authorized certifying officer with the Department of Agriculture's (USDA), National Finance Center, requests an advance decision regarding whether Ms. Carol S. Stanley is entitled to reimbursement of relocation expenses incident to her transfer from Washington, D.C., to Coeburn, Virginia. The Forest Service has denied her claim on the basis that the relocation was primarily for the convenience of the employee and not in the interest of the Government.

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Ms. Stanley was hired by the Jefferson National Forest on May 18, 1980, as a grade GS-3, Clerk Typist. Prior to her appointment, she was employed by the Naval Military Personnel Command in Washington, D.C., as a grade GS-6, Supervisor. In order to fill the grade GS-3, Clerk Typist position, the Jefferson National Forest requested a list of eligibles from the Office of Personnel Management (OPM) on March 11, 1980. In April 1980, Ms. Stanley inquired about employment at the Jefferson National Forest and left her SF-171, Personal Qualifications Statement, for consideration. On her SF-171, Ms. Stanley indicated her reason for seeking employment in Coeburn was that she desired to relocate to Southwest Virginia. The Forest Service decided to hire Ms. Stanley rather than one of the applicants provided on the list of eligibles by OPM, but they did not authorize any relocation expenses to Ms. Stanley.

The Forest Service states that the position was not advertised under the Internal Merit Promotion Procedures because it was determined that there were no eligible candidates available at the Jefferson National Forest. The request for a certificate of eligibles from OPM was not subject to the USDA Merit Promotion Plan. In addition, the Forest Service states that the Merit Promotion Plan does not provide for acceptance of voluntary applications from current or former employees of non-USDA agencies. Finally, the Forest Service states that the employee would only have been eligible for consideration under Merit Promotion if the job had been advertised on a Government-wide basis.

Ms. Stanley has now made a claim for relocation expenses incurred due to her relocation to Coeburn, Virginia. She states that she had made this claim after she was advised that other employees had been paid for their moves to Coeburn.

The payment of travel, transportation, and relocation expenses of transferred Government employees is authorized

under 5 U.S.C. §§ 5724 and 5724a (1976), as implemented by the Federal Travel Regulations, FPMR 101-7 (May 1973) (FTR). Under 5 U.S.C. § 5724 and FTR para. 2-1.3, reimbursement may be made only when the transfer is in the Government's interest. Each agency is required to determine that a particular transfer is in the Government's interest and is not primarily for the convenience or benefit of the employee or at the employee's request. Where an agency acts under this authority and determines that the transfer was primarily for the convenience and benefit of the employee, such a determination is generally binding in the absence of a showing that it was arbitrary, capricious, or clearly erroneous under the facts of the case. See Marianne Poarch Meehan, B-211572, August 1, 1983, and decisions cited therein.

In order to assist agencies in making a determination as to whether a transfer is in the Government's interest, we provided the following guidance in Rosemary Lacey, B-185077, May 27, 1976:

"\* \* \* If an employee has taken the initiative in obtaining a transfer to a position in another location, an agency usually considers such transfers as being made for the convenience of the employee or at his request, whereas, if the agency recruits or requests an employee to transfer to a different location it will regard such transfer as being in the interest of the Government. Of course, if an agency orders the transfer and the employee has no discretion in the matter, the employee is entitled to reimbursement of moving expenses."

When an agency issues a vacancy under its merit promotion program, such action is a recruitment action. Thus, when an employee transfers pursuant to such action, the transfer is normally regarded as being in the interest of the Government in the absence of agency regulations to the contrary. In such circumstances, the employee may not be denied relocation expenses of a transfer pursuant to selection under a merit promotion plan on the basis that

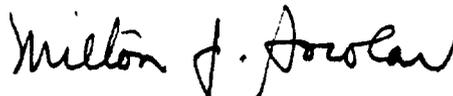
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the employee initiated the job request by replying to a vacancy announcement. See Eugene R. Platt, 59 Comp. Gen. 699 (1980); reconsidered, 61 Comp. Gen. 156 (1981).

Here, the record supports the administrative determination by an appropriate agency official that Ms. Stanley's transfer was primarily for her benefit and convenience. The position was not subject to the agency's merit promotion plan, and the agency did not recruit Ms. Stanley or request her transfer from her prior position with the Department of the Navy. The Forest Service selected Ms. Stanley instead of a candidate from OPM's list of eligibles, but that selection does not, in itself, provide a basis to overturn the agency's determination that the transfer was primarily for her benefit and convenience. See Curtis E. Jackson, B-210192, May 31, 1983, and decisions cited therein. Therefore, we concur with the agency's determination concerning this transfer.

As stated above, Ms. Stanley has alleged that two other employees at Coeburn were reimbursed for relocation expenses in similar circumstances. The Forest Service states that these two employees were transferring between positions in the Forest Service, that their relocation expenses were authorized in advance, and that they were apparently selected under the Merit Promotion Plan. Their reimbursement provides no basis to allow Ms. Stanley's claim.

Accordingly, we sustain the agency's denial of Ms. Stanley's claim for relocation expenses.



Acting Comptroller General  
of the United States