

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548****FILE:** B-220119**DATE:** December 9, 1985**MATTER OF:** National Federation of Federal
Employees, Local 1437**DIGEST:**

It is the policy of the Comptroller General to decline jurisdiction in matters pending resolution in grievance proceedings initiated under the laws governing Federal labor-management relations, if one of the parties indicates a preference to have the dispute settled through arbitration and objects to a review of the matter in the General Accounting Office. Hence, jurisdiction is declined on an agency's request for a decision concerning allegedly fraudulent travel and transportation allowance claims submitted by an employee, where it appears the matter is pending arbitration and the employee's union objects to the agency's referral of the case to the General Accounting Office for review.

A Finance and Accounting Officer of the Department of the Army questions whether a civilian employee can be held financially liable for certain allegedly fraudulent travel and transportation allowance claims.^{1/} The employee and his union object to our consideration of that question, however, suggesting that our review would improperly interfere with ongoing grievance proceedings in the case. We decline jurisdiction because of those objections.

Background

The employee involved in this matter holds a metallurgist position, grade GS-12, at the Army Armament

^{1/} This action is in response to a request for a decision dated June 7, 1985, from Mr. Bernard F. McCullough, Finance and Accounting Officer, Headquarters United States Army Armament, Munitions and Chemical Command (AMSMC-CPF(D)), Dover, New Jersey. The request was forwarded here by the Office of the Comptroller of the Army (DACA-FAZ-GL), on August 21, 1985.

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Research and Development Center, Dover, New Jersey. He is a member of Local 1437 of the National Federation of Federal Employees.

The employee received an authorization in 1980 to relocate himself, the members of his family, and the family's household goods at Government expense from Salem, Oregon, to Dover, New Jersey, when he was initially hired by the Department of the Army. At that time he claimed and was paid amounts as reimbursement of his necessary travel and transportation expenses.

In August 1984 the employee was removed from his position on grounds of fraud relating to the claims he had submitted in 1980 for reimbursement of his expenses incurred in moving from Oregon to New Jersey. The National Federation of Federal Employees invoked arbitration on his behalf in subsequent grievance proceedings brought to contest his removal. A settlement agreement concluded in arbitration in February 1985 by and among the union, the employee, and the employing agency stipulated that the employee's "removal, effective August 10, 1984, will be cancelled, and a suspension without pay will be substituted in place of the removal. This suspension will terminate on February 10, 1985, at 2400 hours."

In April 1985 the concerned Army Finance and Accounting Officer notified the employee that he was indebted to the United States in the amount of \$6,941.73 because of overpayments of travel and transportation allowances he had received for his move from Oregon to New Jersey in 1980. The union filed another grievance on the employee's behalf, contending that the proposed collection improperly contravened the settlement agreement concluded in arbitration. At a meeting subsequently held in May 1985 in compliance with the grievance procedures prescribed in the collective bargaining agreement, the union and the employee argued that it was their understanding the settlement was supposed to have resolved all issues concerning the alleged fraud. When the agency proposed to refer the matter here for resolution, the union objected and indicated that it would again invoke arbitration if the collection action were continued. We have been advised by the National Federation of Federal Employees that it has in fact invoked arbitration in this matter.

Analysis and Conclusion

The Civil Service Reform Act of 1978 revised chapter 71 of title 5, United States Code, which now governs Federal labor-management relations, and which contains provisions for collective bargaining agreements and grievance procedures.^{2/} Under those provisions, arbitration awards that may result from grievance proceedings are subject to review by the Federal Labor Relations Authority and not by our Office.^{3/}

Our Office does have broad statutory responsibilities for settling monetary claims brought by and against the United States, and for deciding questions presented by the accounting officers of the Government concerning the propriety of expenditures of public funds.^{4/} Because specific rules have been established by law to govern collective bargaining agreements and grievance procedures, however, we have issued regulations delineating the circumstances in which we will render decisions related to expenditures which are of mutual concern to agencies and labor organizations.^{5/} Those regulations provide that we will not review or comment on the merits of an arbitration award which is final and binding.^{6/} Moreover, we will not otherwise issue a decision or comment on the merits of a matter which is subject to grievance procedures, if we find that it is more properly within the jurisdiction of the Federal Labor Relations Authority and that our assertion of jurisdiction would be disruptive to the grievance and arbitration

^{2/} Public Law 95-454, approved October 13, 1978, 92 Stat. 1111, 1191. See 5 U.S.C. §§ 7103(8), (9), and (12); and 7111-7123.

^{3/} 5 U.S.C. § 7122(a).

^{4/} See 31 U.S.C. §§ 3529, 3702.

^{5/} Part 22 of title 4, Code of Federal Regulations.

^{6/} See 4 C.F.R. § 22.7(a).

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process.^{7/} Generally, therefore, our policy is to decline jurisdiction in matters pending in grievance proceedings if one of the parties objects to our review, and indicates a preference to have the controversy instead resolved through arbitration.^{8/}

In the present case, it does not appear that a final and binding arbitration award has ever been issued. However, it does appear that grievance proceedings are now pending on the issue of whether the employee has any remaining monetary obligation to the Government on account of the allegedly fraudulent travel and transportation allowance claims he submitted in the course of his Federal employment in 1980. Since it further appears that this issue is subject to resolution in arbitration, and the employee and the union have objected to our review of the substantive merits of the controversy, we find that an assertion of jurisdiction on our part would unduly interfere with the grievance process.

Accordingly, we decline jurisdiction in this matter.



Acting Comptroller General
of the United States

^{7/} See 4 C.F.R. §§ 22.7(b), 22.8; and Gerald M. Hegarty, 60 Comp. Gen. 578, 580 (1981).

^{8/} See, e.g., American Federation of Government Employees, Local 2459, 62 Comp. Gen. 274 (1983); Ira Schoen and Melissa Dadant, 61 Comp. Gen. 15, 19 (1981); Samuel R. Jones, 61 Comp. Gen. 20, 25 (1981); and Eleanor Mickelson, B-208399, June 3, 1983.