



The Comptroller General  
of the United States

Washington, D.C. 20548

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## Decision

Matter of: Anniston Army Depot Arbitration Award--GAO  
Jurisdiction  
File: B-226693  
Date: July 16, 1987

### DIGEST

In accordance with 4 C.F.R. Part 22 GAQ will not accept jurisdiction of an accounting officer's request for an advance decision regarding the implementation of a final and binding arbitration award.

### DECISION

#### INTRODUCTION

A Finance and Accounting Officer at the Anniston Army Depot in Anniston, Alabama, has requested an advance decision regarding the implementation of an arbitrator's award involving the Lexington-Blue Grass Army Depot and the American Federation of Government Employees. The Anniston Depot is concerned with the implementation of this award because it is responsible for keeping the time and attendance and payroll records of the Lexington-Blue Grass employees. For the reasons stated below and in accordance with 4 C.F.R. Part 22 (1982) we decline to assert jurisdiction over this matter.

#### FACTS

The dispute which was the subject of this arbitration resulted from the partial closure of the Lexington-Blue Grass Army Depot on July 5, 1985, the purpose of which was to conserve energy. All employees were either charged annual leave or leave without pay except emergency employees and those with personal hardships who worked in unairconditioned facilities. The Union filed a grievance objecting to the leave charges and requesting restoration of annual leave and pay for those employees who had been charged annual leave and leave without pay, and holiday pay for those who had worked. The grievance was denied on the basis that agency regulations specifically gave management the right to close installations and place employees in a leave or leave-without-pay status. The matter proceeded to arbitration and the arbitrator found that the partial closure had not been implemented in accordance with applicable rules and regulations. As a result, he ordered restoration of

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leave for those employees charged annual leave and pay for those charged leave without pay.

The Department of the Army filed an exception with the Federal Labor Relations Authority (FLRA) on the grounds that the award was contrary to agency regulations precluding the grant of administrative leave for closures which can be anticipated sufficiently in advance so as to permit assignment to other work or scheduling of annual leave--regulations for which the FLRA had previously determined a compelling need. The FLRA distinguished the case in which it had determined a compelling need for those regulations and ruled that in the circumstances of this case the Department had failed to demonstrate facts sufficient to provide a basis for finding a compelling need for its regulations. The FLRA held, therefore, that the Department's exception did not establish a basis for finding the award deficient.

The Anniston Depot requests our decision on the implementation of the arbitration award, stating that the FLRA did not address the authority of the arbitrator to restore annual leave or pay, which is an effective grant of administrative leave. The Depot argues that the arbitrator misinterpreted agency regulations regarding administrative leave and that the award usurps the Depot's discretionary authority to grant administrative leave.

At Part 22 of title 4, Code of Federal Regulations, the Comptroller General has issued regulations prescribing the procedures governing requests for GAO decisions concerning the legality of appropriated fund expenditures on matters of mutual concern to Federal agencies and labor organizations participating in the labor-management program established pursuant to Chapter 71 of title 5, United States Code, and other Federal sector labor-management programs. Under these regulations, heads of Federal agencies and departments (or their designees), heads of labor organizations representing Federal employees (or their designees), and authorized certifying or disbursing officers may request a decision.

These regulations also provide guidance as to when GAO will defer to procedures established pursuant to Chapter 71, of title 5, United States Code. For instance, 4 C.F.R. § 22.7(b) provides that we will not consider for decision a matter of mutual concern subject to a negotiated grievance procedure if either the agency or the labor organization objects. And 4 C.F.R. § 22.7(a) provides that the Comptroller General will not review or comment on the merits of an arbitration award which is final and binding under 5 U.S.C. § 7122(a) or (b), and that payments made pursuant

to such an award will be considered conclusive on GAO in its settlement of the accounts involved.

In Gerald M. Hegerty, 60 Comp. Gen. 578 (1981), we declined jurisdiction of an employee's request which placed in issue the finality or propriety of the implementation of an arbitrator's award stating that our jurisdictional policies necessitating such action recognized the intent of Congress in enacting Chapter 71 of title 5, United States Code as part of the Civil Service Reform Act of 1978 and recognized the important role of labor organizations and collective bargaining in the civil service.

We continue to believe that it is an appropriate jurisdictional policy to decline comment on final arbitration awards. Therefore, in keeping with paragraph 22.7(a) of Part 22, we hereby decline to consider the Anniston Army Depot's request for our review of the arbitration award.

*for*   
Comptroller General  
of the United States