



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Perry L. Golden and Wayne Wood - Overtime
Compensation for Travel to Training
File: B-223378
Date: August 31, 1987

DIGEST

Finding that travel for employees attending training course away from their official duty station and outside their regularly scheduled administrative workweeks does not qualify as an event which could not be scheduled or controlled administratively within the meaning of 5 U.S.C. § 5542(b)(2)(B) (1982), claims for overtime compensation for employees under that statute are denied. Agency here controlled use of training facility and controlled scheduling of participation. Although agencies are exhorted to schedule traveltime to the maximum extent possible within the regular workweek of the employee (5 U.S.C. § 6101(b)(2)), Congress has authorized overtime pay for traveltime only under the specifically limited circumstances set forth in 5 U.S.C. § 5542 and employees in this case are not entitled to overtime compensation merely on the basis that their travel took place outside their regular workweek.

DECISION

This responds to a June 5, 1986, joint request from Mr. Perry L. Golden, President, American Federation of Government Employees Local 2906, and W. A. Rehder, Supervisor of Ship Building, Conversion and Repair, U.S. Navy, Bath, Maine. The parties request a decision as to whether two employees who traveled outside regular working hours to attend training are entitled to overtime compensation under 5 U.S.C. § 5542 (1982).

We hold that, in the circumstances presented here, the employees are not entitled to overtime compensation for their traveltime.

BACKGROUND

This case comes to us as a joint request for decision pursuant to the labor-management relations procedures set forth in 4 C.F.R. Part 22 (1986).

In June 1985, two employees of the Supervisor of Ship Building, Conversion and Repair, U.S. Navy, Bath, Maine (SUPSHIP Bath), were assigned for training courses in Moorestown, New Jersey, for the AEGIS Weapon System Mark 99 Fire Control System. This training program had initially been developed as AEGIS Test Team support training for Bath Iron Works Corporation employees under a contract with RCA Corporation's Government Systems Division. As it became evident that SUPSHIP Bath employees would benefit from this training, a mix of Bath Iron Works and SUPSHIP Bath employees were scheduled to attend the Moorestown training during the period from April through October 1985.

Mr. Perry L. Golden and Mr. Wayne Wood, both of whom occupied positions exempted from the provisions of the Fair Labor Standards Act, have each filed claims for 12.5 hours representing overtime compensation or compensatory time for traveltime which each incurred in traveling to the training course on Sunday, June 9, 1985, and returning on Saturday, June 15, 1985. Since the employees' regularly scheduled administrative workweeks are ordinarily the 5-day period from Monday through Friday, each requested overtime for his time spent in a travel status outside normal work hours. The SUPSHIP Bath denied the claims for overtime compensation because the training was subject to administrative control by management and, therefore, the time spent in a travel status away from the official-duty station could not be considered hours of employment within the qualifying provisions of 5 U.S.C. § 5542(b)(2)(B) (1982).

In the joint submission to this Office the employees counter that they are entitled to overtime compensation in the circumstances presented because they had been induced to attend the training program on the assurance of their department head that they would be paid overtime compensation. They contend that, since the training was conducted by RCA under contract with the Bath Iron Works, the employees' travel resulted from an event which could not be scheduled or controlled administratively by the U.S. Navy.

OPINION

For General Schedule employees, the general rule is that traveltime outside of regular duty hours is not considered hours of employment and is not compensable as overtime except as provided for by the Congress in 5 U.S.C. § 5542 (1982). Department of Labor--Overtime Compensation for Traveltime, B-193127, May 31, 1979. Section 5542 of

title 5, United States Code (Supp. III, 1985), provides in part:

"(b) For the purpose of this subchapter--

* * * * *

"(2) time spent in a travel status away from the official-duty station of an employee is not hours of employment unless--

* * * * *

"(B) the travel * * * (iv) results from an event which could not be scheduled or controlled administratively, including travel by an employee to such an event and the return of such employee from such event to his or her official-duty station."

While the phrase "could not be scheduled or controlled administratively," is not susceptible to a precise definition, we have held that there must exist an immediate official necessity occasioned by the unscheduled and administratively uncontrollable event which requires the travel to be performed outside the employee's regular duty hours. Charles S. Price, et al., B-222163, August 22, 1986; and Thomas G. Hickey, B-207795, February 6, 1985. Thus, where the necessity for the travel is not so urgent as to preclude proper scheduling of travel, then overtime compensation may not be paid nor compensatory time granted for the after-hours traveltime. John B. Schepman, et al., 60 Comp. Gen. 681, (1981); and Hankins and Archie, B-210065, April 2, 1984.

We do not find that the travel for training in this case meets the statutory requirement for the payment of overtime compensation as resulting from an event which could not be scheduled or controlled administratively. Here, the Navy did have control of the training in several ways:

--Bath Iron Works (BIW) was under contract with the Navy to construct six AEGIS Guided Missile Cruisers. The training program in question was developed by RCA Corporation as support training for BIW employees for this Navy contract. It then became evident that the training would also benefit the Navy employees at SUPSHIP BATH. Accordingly, a mix of BIW and Navy employees were scheduled to attend the training during April through October 1985.

--The training was conducted at a Navy-owned facility, the Combat Systems Engineering Development Site at Moorestown, New Jersey. The Navy controlled the scheduling of the site resources, classrooms, and meeting rooms.

--The Navy selected the personnel who would attend the training program and when they would attend.

Thus, we do not have "an event which could not be scheduled or controlled administratively," as required by the statute. It seems clear that the Navy could and did control both the training and its scheduling. Thus, this is not the situation in which a totally independent private institution provides training over which the Government has no control.

Although agencies are exhorted to schedule traveltime to the maximum extent possible within the regular workweek of the employee (5 U.S.C. § 6101(b)(2)), Congress has authorized overtime pay for traveltime only under specifically limited circumstances. Barth and Levine v. United States, 215 Ct. Cl. 383 (1978). We hold that, in the circumstances presented here, the employees are not entitled to overtime compensation merely on the basis that their travel to approved government training took place outside of their regular workweeks.

Since Mr. Perry's and Mr. Wood's traveltime in connection with their training course does not qualify as hours of work for the purpose of compensation under the overtime statute, their claims are denied.

for 
Comptroller General
of the United States