



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Andrea V. Gabriel  
File: B-236754  
Date: March 21, 1990

### DECISION

Ms. Gabriel, a former employee of the Department of Agriculture, was reassigned from a position in Berkeley, California, to a position in Washington, D.C., effective December 7, 1986. She refused the reassignment and failed to report for duty in Washington. She was placed in absence-without-leave (AWOL) status and subsequently removed, effective February 23, 1987, for her failure to report for duty.

Ms. Gabriel did not appeal her separation from federal service but rather appealed her placement in AWOL status to the Merit Systems Protection Board (MSPB). The MSPB ruled that the agency's directed reassignment was not an action appealable to the Board, and the MSPB denied her appeal of "constructive removal" from her position in December 1986.<sup>1/</sup>

Ms. Gabriel argues that the directed reassignment and placement in AWOL status were improper and should be reversed by our Office.<sup>2/</sup> We have reviewed the record before us and find no basis to overturn the agency's actions in this case. We note that the claimant was offered the choice of (1) accepting the reassignment or (2) declining the reassignment, resigning, and applying for placement assistance, but that she chose to decline the reassignment with the understanding that she would be removed for failure to report for duty.

The propriety of the agency's actions in this case has been reviewed by the MSPB. As noted in the MSPB opinion cited above, the MSPB administrative judge concluded that the

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1/ Gabriel v. Department of Agriculture, Docket No. SFO7528710211-1 (Sept. 30, 1988).

2/ Mr. Robert L. Neal, Ms. Gabriel's designated representative, has presented this claim.

agency had not erred in using directed reassignment instead of reduction-in-force procedures, that the agency had a legitimate management reason for the reassignment, and had provided the claimant with adequate notice of the reassignment.

The claimant has not refuted these conclusions. Therefore, based on our review of the record, we conclude that the claimant has failed to demonstrate that the agency's actions placing her on AWOL for failing to report for duty constitute an unjustified or unwarranted personnel action under the Back Pay Act, 5 U.S.C. § 5596 (1988).

Accordingly, we deny Ms. Gabriel's claim for backpay.

  
James F. Hinchman  
General Counsel