



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Thomas J. Galvin
File: B-245144
Date: October 9, 1991

DECISION

The United States Customs Service requests an advance decision on whether Mr. Thomas J. Galvin may be paid certain relocation costs incident to his erroneous retirement from and subsequent reinstatement to his position with the agency. For the reasons stated below, we conclude that he may not.

Mr. Galvin retired from the agency in June 1985 and chose to relocate from Los Angeles, California, which had been his last official duty station, to Clarkston, Washington. Although he began receiving retirement checks almost immediately, in February 1986 the Office of Personnel Management determined that the agency had erred in calculating Mr. Galvin's service computation date and that, in fact, he needed to work nine more months to be eligible to retire. As a result of the error, the agency reinstated Mr. Galvin effective June 1, 1986, with full backpay and without a break in service.^{1/}

The agency and Mr. Galvin mutually agreed to have Mr. Galvin assigned to the agency's office in Blaine, Washington, which is approximately 400 miles from Clarkston.^{2/} The agency told Mr. Galvin that he would be entitled to reimbursement for all expenses associated with this relocation. Mr. Galvin has submitted a voucher for the actual expenses he incurred in his move from Clarkston to Blaine and a reconstructed voucher for the expenses he incurred in his move from Los Angeles to Clarkston.

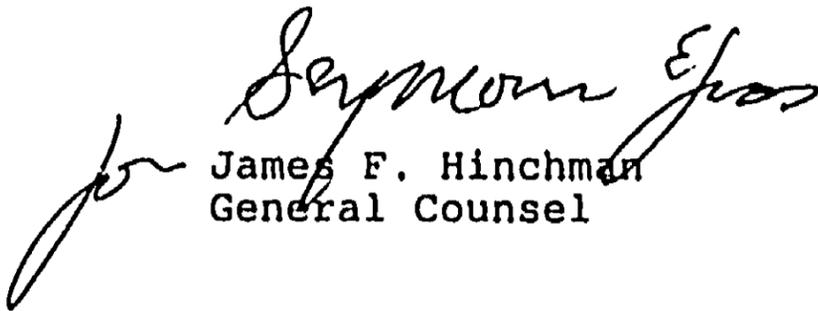
^{1/} Mr. Galvin received backpay for the nearly 1 year that he was erroneously retired in a net amount of over \$27,000, and had restored to his credit 100 hours of sick leave and 200 hours of annual leave that he would have earned had he worked during that period.

^{2/} At Mr. Galvin's request, the agency later changed his duty station to Sumas, Washington, which is in the same area as Blaine.

Generally, relocation benefits are available only to employees who transfer "in the interest of the Government from one official station to another for permanent duty" 5 U.S.C. § 5724(a)(1) (1988). An employee's decision to relocate after being erroneously retired is a personal choice, and is not attributable to the agency's error. Gertrude M. Grammer, B-226519, Aug. 22, 1988; Walter W. Moore, B-187261, Mar. 4, 1977. Therefore, Mr. Galvin's decisions to move to Clarkston upon retirement and then relocate to Blaine to restore his eligibility for retirement were personal in nature and do not qualify him for relocation benefits. Also, while under the Back Pay Act, 5 U.S.C. § 5596 (1988), as noted above, he was entitled to backpay for the period of his erroneous retirement, that act does not authorize consequential relocation and moving expenses when an employee is erroneously separated. Orlan Wilson, 66 Comp. Gen. 185 (1987). Accordingly, the agency erred when it approved relocation expense reimbursement for Mr. Galvin.

The agency's erroneous agreement to pay Mr. Galvin's relocation expenses may not serve as the basis for the reimbursement of expenses to which he otherwise is not entitled. It is a well-established rule that the United States may not be bound by the erroneous acts of its employees and that the receipt of information later established to be erroneous does not afford a legal basis for a payment from appropriated funds. Richard D. Borck, B-241984, May 13, 1991, citing Office of Personnel Management v. Richmond, 110 S. Ct. 2465 (1990).

It appears, therefore, that Mr. Galvin has received all the relief for which he is eligible. Accordingly, his claim for relocation expenses may not be certified for payment.


James F. Hinchman
General Counsel