



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-176982

DEC 14 1972

Concord, California 94521

Dear Mr. :

We refer to your letter of August 14, 1972, requesting reconsideration of the denial by our Transportation and Claims Division's Settlement Certificate dated August 10, 1972, of your claim for travel expenses, shipment of household goods and temporary quarters subsistence expenses in connection with reporting to duty as a new employee of the Department of the Navy, Naval Air Station, Alameda, California.

The circumstances which gave rise to your claim are set forth in the Settlement Certificate and will not be repeated here in detail. Essentially what occurred is that you were authorized the expenses which you are now claiming upon the erroneous understanding of Department of the Navy personnel that the position for which you were appointed was in a manpower shortage category. In fact the position was not in a manpower shortage category and there is therefore no authority for payment of your claim as a new appointee for relocation expenses.

You now request, notwithstanding that lack of authority, that consideration be given to your claim on the basis that you relied to your detriment upon the administrative error. We recognize that you no doubt did rely upon advice given in the Department of the Navy's letter of November 8, 1971, that reimbursement for certain of your family's relocation expenses would be made. Unfortunately, however, such reliance is not a basis upon which payment of appropriated funds may be disbursed in the absence of proper legal authority for such payment.

The well established rule of law in this regard is that anyone entering into an arrangement with the Government takes the risk of having ascertained that the agent with whom he deals and who purports to act for the Government stays within the limits of his authority, inasmuch as the Government can be neither bound nor estopped by the unauthorized acts of its agents. _____ v. United States, 95 U.S. 316 (1877); Fine River Logging Co. v. United States, 156 U.S. 279 (1902); Utah Power and Light Co. v. United States, 243 U.S. 389 (1917); Sutton, Trustee of Estate of

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Hillsboro Dredging Company, Bankrupt v. United States, 256 U.S. 575 (1921); Wilber National Bank of Oneonta, Administrator v. United States, 294 U.S. 120 (1935); Federal Crop Insurance Corporation v. _____, 332 U.S. 380 (1947). This rule pertains as a matter of public policy for the protection of public funds. Western Pennsylvania Horological Institute, Inc. v. United States, 146 Ct. Cl. 540 (1959); California-Pacific Utilities Company v. United States, 194 Ct. Cl. 703 (1971); Blake Construction Company, Inc. v. United States, 296 F. 2d 393 (1961). Its justification lies in part in the fact that agents of the Government have known and limited powers explicitly defined by public instruments such as statutes, executive orders and regulations. United States v. _____, 208 F. Supp. 511 (1962); _____ v. United States, 342 F. 2d 655 (1965); Blake Construction Company, Inc. v. United States, supra.

Under appropriate circumstances, your reemployment within the Department of Defense might possibly have been regarded as a restoration pursuant to 50 U.S.C. 459. In 25 Comp. Gen. 293 (1945), we held that an employee returning to civilian employment after separation from military service may be regarded as restored at the place from which furloughed--even though there be no vacancy or position for him there--and transferred at Government expense to the place where the Department does have a suitable vacancy or position. See also B-170987, December 14, 1970, copy enclosed. There is no indication that your employment at Naval Air Station, Alameda, California, with the Department of the Navy was the result of the nonavailability of an appropriate vacancy at Tinker Air Force Base. Rather it would appear that you sought employment there for personal reasons. Accordingly, we see no basis for objection to the Navy's reported determination that you may not be regarded as transferred for the convenience of the Government.

For the above reasons the denial of your claim by Settlement Certificate dated August 10, 1972, is hereby sustained.

Sincerely yours,

R.F. KELLER

Deputy Comptroller General
of the United States

Enclosure