



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

D-177449

JAN 23 1973

Mr. Robert W. Blakeley, Chief
Office of Administrative Services
Office of the Chief of Engineers
Department of the Army
Washington, D. C. 20314

Dear Mr. Blakeley:

We refer to your letter of October 26, 1972, your reference DAEN-ASZ-T, to the Chairman, Per Diem, Travel and Transportation Allowance Committee, by which you request a decision of the Comptroller General whether you are required to collect any part of the amounts paid to ^{for surface travel of himself and} his family incident to his transfer from Leghorn, Italy, to New York, New York, as an employee of the Corps of Engineers. Your request was forwarded to our Office by the Committee under PWATAC Control No. 72-54.

When notified of his pending transfer to the United States requested permission to travel by sea in view of the fact that certain members of his family would not consent to travel by air. He was advised verbally and in his travel authorization that if he traveled by sea reimbursement would be limited to the cost of direct travel by air. The travel authorization expressed this limitation in terms of the "most direct route and most usually traveled made from old duty station to new duty station." Nevertheless secured passage on the only American flag vessel available for travel to the United States which was a freighter with limited passenger accommodations sailing from Leghorn, Italy, to Port Everglades, Florida. Travel from Port Everglades to New York was performed by privately owned automobile.

has been reimbursed the full amount he had paid for ocean transportation, mileage and tolls for the automobile travel performed, and per diem for himself and his dependents based on the travel as performed without regard to the limitation imposed in his travel authorization. You request our decision whether should be required to refund the difference between the amount paid and the amount the Government would have paid if the travel had been performed by air over a direct route.

The current provisions of paragraph 66001 of the Joint Travel Regulations (JTR), Volume 2, specifically provide for the authorization

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of surface transportation for an employee's family in connection with overseas assignments with reimbursement limited to the constructive cost of air travel. However, the travel in question was performed in August 1970, some time before the regulations were amended on October 1, 1972, to include such a specific provision. The regulations in force at the time travel was performed were considered in our decision B-174477, February 8, 1972, copy enclosed, which was in response to an inquiry from the Chairman, Per Diem, Travel and Transportation Allowance Committee as to the propriety of restricting reimbursement of employees to the constructive costs of air travel when their families perform authorized travel from overseas duty stations by commercial surface means rather than by air. In that decision we said:

"But, if reimbursement of dependant travel from overseas duty stations is to be limited to the cost of Government offered air transportation, the current JTR provisions should be revised to make this clear. We suggest that this be done in terms of limitation of cost and not in terms of dependents being required to use Government aircraft.* * *"

The regulations in force at the time that decision was rendered as well as the current regulations provide in paragraph C6001-3a that overseas travel "by surface means of transportation may be permitted at the option of the traveler whenever the needs of the service do not require the use of a faster mode." However, as indicated in the decision of February 8, 1972, that provision is not considered as determining an employee's right to reimbursement. Further, we have held that reimbursement to an employee for surface travel which he elects to use may be limited to the constructive cost of air travel. See B-153231, July 17, 1969, copy enclosed.

Paragraph C6001-4 of the JTR, so far as pertinent to this case, provides in subparagraph a:

"* * * Except when travel by aircraft is precluded for medical reasons (see Subparagraph g) employees may be required to perform necessary travel by regularly scheduled commercial aircraft. Dependents, however, will not be required to travel by aircraft without their consent.* * *"

Subparagraph b of that paragraph was added by change 84, effective October 1, 1972, to specifically provide that when a dependent elects to use commercial ship or aircraft reimbursement will be limited to the cost

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of Government offered air transportation except in certain enumerated circumstances which are not pertinent here. However, as previously indicated, that provision was not contained in the JTR at the time and his family performed the travel here in question.

Our view is that the JTR prior to the October 1, 1972 amendment did not require or permit a limitation on reimbursement to the cost of air travel in connection with overseas travel of the immediate family of an employee. In that connection we note that Department of the Army Circular No. 55-56, May 8, 1970, so far as it requires the use of air travel, may not be considered as applicable to the immediate family of an employee.

With respect to reimbursement for travel performed by the employee the provisions of the JTR as interpreted in the cited decisions of this Office permit reimbursement to be limited to air travel when the employee elects to use commercial surface transportation in lieu of Government procured air transportation. Compare B-166553, May 15, 1969, copy enclosed. Such a limitation on reimbursement was contained in the employee's travel authorization and verbally communicated to him. The fact that the limitation is regarded as inapplicable to the travel of the employee's immediate family does not affect his right to reimbursement for his own travel under the rules established.

Accordingly, any amount paid for the travel in question which represents reimbursement for his own travel in an amount which exceeds the cost of air travel by the most direct route from old duty station to new duty station should be collected from him. However, he may be allowed to retain payments received for the travel of his immediate family by ship and privately owned automobile. In that connection we do not find it necessary to question the route used by the immediate family in view of all the circumstances involved.

The papers forwarded with your request are returned for handling in accordance with the above.

Sincerely yours,

PAUL G. DEMBLING

For the Comptroller General
of the United States

Enclosures