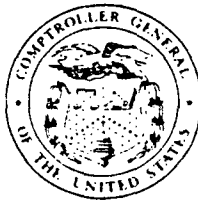


DECISION

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

50706
97271

FILE:

DATE:

MAY 28 1975

MATTER OF: **B-182282****David C. Corson - Claim for movement of household goods in connection with job reinstatement**

DIGEST:

Employee was erroneously separated and required to vacate Government quarters. Expenses of moving household goods from and to Government quarters based upon finding of unwarranted personnel action may not be reimbursed since statute (5 U.S.C. 5596) and regulation (5 C.F.R. 550.804(s)) only permit pay, allowances, and differentials and do not provide for reimbursement of relocation expenses.

This decision is in response to a claim by Mr. David C. Corson for the expenses of movement of household goods from and to Government quarters incident to his erroneous separation from his position and reinstatement under 5 U.S.C. 5596 (1970).

Mr. Corson was employed as a cemetery superintendent at the Natchez National Cemetery, Natchez, Mississippi, by the Department of the Army. He was removed from service effective April 14, 1972, for violation of ethical standards of conduct. Mr. Corson was notified in a letter dated March 27, 1972, that he must vacate the quarters which he then occupied as a requirement of his position not later than April 14, 1972, and that his quarters deductions of \$33.43 would end as of that date. Mr. Corson appealed the action to the Civil Service Commission and the Commissioners ultimately determined, in a letter dated May 11, 1973, that the charges against him were sustained but that the penalty of removal was too harsh and substituted a suspension of 30 days. During the time of the appeals Mr. Corson vacated his quarters and, on June 12, 1973, reoccupied them. The claim before us is for Mr. Corson's moving expenses out of and back into his quarters.

Backpay due to unjustified personnel actions is governed by 5 U.S.C. 5596 (1970). The statute provides, generally, that an employee who has undergone an unwarranted personnel action which resulted in the withdrawal or reduction of all or part of his pay, allowances, or differentials is entitled to receive an amount equal to the pay, allowances, or differentials he normally would have received, less amounts earned by him elsewhere during the period. The statute directs the Civil Service Commission to prescribe regulations.

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The regulations which have been propounded in regard to backpay state, at 5 C.F.R. 550.804(a) (1973):

"When an appropriate authority corrects an unjustified or unwarranted personnel action, the agency shall recompute for the period covered by the corrective action the pay, allowances, differentials, and leave account (limiting the accumulation to the maximum prescribed by law or regulation for the employee) of the employee as if the unjustified or unwarranted personnel action had not occurred and the employee shall be deemed for all purposes to have rendered service in the agency for the period covered by the corrective action. In making its computation under this paragraph, an agency shall not include as allowances any amount which represents reimbursement for expenses which would have been incurred by an employee in the performance of his job if the unjustified or unwarranted personnel action had not occurred but which were not incurred because of the unjustified or unwarranted personnel action but shall include other allowances which are a form of remuneration to the employee for services that otherwise would have been rendered in the job."

The terms used in both the statute and the regulations--pay, allowances, and differentials--do not include travel, transportation, or moving expenses. This is so since they are incidental expenses incurred by an employee as a consequence of an unjustified or unwarranted personnel action, not allowances that he would have received if he had not undergone the improper personnel action. In this connection also see 5 U.S.C. 5584 (Supp. III, 1973), which provides for waiver of collection of erroneous overpayments of pay, allowances, or differentials, under certain conditions, but specifically excludes waiver of travel, transportation, and relocation expenses. Therefore, the claim of Mr. Corson for moving expenses may not be allowed since it does not come within the provisions of the statute or regulations.

In accordance with the above, the claim of Mr. David C. Corson is denied and the voucher is retained in this Office.

R. P. KELLER
Deputy Comptroller General
of the United States