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

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DECISION

SEP 22

DATE: SEP 22 1976

FILE: E-186000

MATTER OF: Lieutenant Colonel , USAF

DIGEST: Member's claim for reimbursement of personal tuition payments at foreign university after not having followed required AF regulation for enrollment under Tuition Assistance Program is not payable on any legal basis, nor does claim contain elements of equity as warranting reporting to Congress under Meritorious Claims Act of 1928, 31 U.S.C. 236 (1970).

This action is in response to a request by Lieutenant Colonel , USAF, SSAN , for consideration, under the Meritorious Claims Act of 1928, 31 U.S.C. 236 (1970), of his claim for reimbursement of \$90 in tuition costs he paid to the University of the Philippines. The matter was forwarded here by the Deputy Chief, Claims and Tort Litigation Division, Office of the Judge Advocate General, Department of the Air Force.

The record shows that on June 10, 1975, the member paid \$123 in tuition fees for enrollment in two courses being given by the University of the Philippines. It is reported that he did not submit a required application for tuition assistance (AF Form 1227) until July 11, 1975, 15 days after the close of school registration. In his application for tuition assistance, he signed as his own supervisor, granting approval for his own application.

The member's request for tuition assistance was denied by his Unit Education Services Officer on July 11, 1975, for the following reasons:

- a. The claimant filed the request after registration was closed, not before, as required by service regulation.
b. The claimant filed the request after paying the tuition, not before, as required by service regulation.

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8-186000

- c. The claimant filed the request after the FY 73 funding had been closed out.
- d. The claimant failed to obtain his supervisor's approval on his request for assistance, and instead, signed his own signature, apparently granting himself approval.

In connection with the foregoing, the file indicates that the member had been counseled on February 21, 1975, on the Tuition Assistance Program requirements and procedures stated in chapter 3 of Air Force Manual (AFM) 213-1, but did not comply with the requirements of administrative regulations carrying out the annual Department of Defense Appropriation Act limitation of payment of no more than 75 percent of charges of educational institutions for tuition for off-duty training of military personnel.

Simply stated, the member, even after counseling, did not follow the required regulations to obtain the proper and timely approval of his supervisor for such tuition assistance. Thus, there is no legal basis for reimbursement of any part of his tuition expenses.

Regarding application of the Meritorious Claims Act, that act provides that when a claim is filed in this Office that may not be lawfully adjusted by use of an appropriation, but which claim in our judgment contains such elements of legal liability or equity as to be deserving of the consideration of the Congress, it shall be submitted to the Congress with our recommendations. The cases reported for the consideration of the Congress have generally involved equitable circumstances of an unusual nature which are unlikely to constitute a recurring problem, since to report to the Congress a particular case when the similar equities exist or are likely to arise with respect to other claimants would constitute preferential treatment over others in similar circumstances.

Based on the information submitted, it is not considered the member's claim has elements of equity of an unusual nature which would warrant submission of the claim to the Congress under the Meritorious Claims Act. Accordingly, no further action will be taken in the matter.

R.F. KELLER
 Acting Comptroller General
 of the United States