

**DECISION**



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

FILE: B-186095

DATE: APR 26 1976

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MATTER OF: Anita M. Blaicher - Annual leave and leave without pay

DIGEST: Where, prior to effective date of reorganization between two installations, agency buses employees during regular duty hours to perform work at installation to which they will subsequently be transferred, it is within agency's administrative discretion to place employees who refuse to comply on annual leave or, in the case of employees without annual leave to their credit, on leave without pay. Claim by employee that she was charged leave in reprisal for having earlier filed a grievance is for consideration under agency grievance procedures.

By letter dated February 17, 1976, Mrs. Anita M. Blaicher, formerly an employee of the Department of the Army, appeals the determination by Transportation and Claims Division (now Claims Division) Settlement Certificate No. Z-2594811, September 9, 1975, denying her claim for recredit of 38 hours annual leave and payment for 34 hours charged to leave without pay.

Mrs. Blaicher's claim arises in connection with a transfer of function from Fort Hamilton, New York, to Fort Dix, New Jersey. The position to which Mrs. Blaicher was assigned at Fort Hamilton was scheduled to be transferred to Fort Dix as part of a reorganization of both installations effective July 1, 1975. In fact the workload of the particular office to which Mrs. Blaicher was assigned was transferred to Fort Dix some weeks earlier. Fort Hamilton employees whose work had been transferred to Fort Dix were required to perform their duties at Fort Dix for a period prior to the effective reorganization date, and for this purpose were bused to Fort Dix during regular working hours at Government expense beginning April 25. Under the mandatory busing policy in effect through May 19, 1975, Fort Hamilton employees were required to report to buses for transportation to Fort Dix at the time they would normally have reported to work at Fort Hamilton and were presumably returned to Fort Hamilton at the time they normally would have completed their regular workdays. On May 20, 1975, the policy of transporting employees to Fort Dix was relaxed and busing thereafter was accomplished on a voluntary basis.

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The Army's policy called for those employees identified with the reorganization who refused to be transported to Fort Dix to be placed in an annual-leave or leave-without-pay status. Although Mrs. Blaicher accompanied the group to Fort Dix on April 25, 1975, she thereafter refused to travel to Fort Dix because she did not feel it was conducive to her son's welfare nor to her peace of mind to be 70 miles away. Effective April 29, 1975, she was placed on annual leave and, when her accrued annual leave balance was depleted on May 5, she was placed in a leave-without-pay status until she transferred to the Federal Aviation Administration on May 10, 1975.

Mrs. Blaicher's claim for reimbursement of annual leave and payment for time charged to leave without pay was disallowed by Settlement Certificate No. Z-2594811 since the charging of leave is primarily a matter for determination by the administrative agency and the leave charges were properly made. In appealing that denial, Mrs. Blaicher states that it is her feeling that the administrative action taken in first charging her annual leave and thereafter placing her on leave without pay was in retaliation for her action in earlier filing a grievance against an individual who was presumably a supervisor. She alleges that the administrative action taken was discriminatory in that employees in another office were allowed to continue working at Fort Hamilton until June 30, 1975, and that another employee in her section was temporarily placed in a job at Fort Hamilton when she refused to be transported to Fort Dix. She further suggests that there were offices at Fort Hamilton in which she could have been placed.

With respect to the charging of annual leave, Book 630, subchapter S3-4b(1)(b) of Federal Personnel Manual Supplement 990-2 (Revised July 1969) provides:

"(b) Taking of leave. The taking of annual leave is an absolute right of the employee, subject to the right of the head of the department or establishment concerned to fix the time at which leave may be taken (39 Comp. Gen. 611, citing 16 Comp. Gen. 481)."

Consistent with the above, we have held that the charging of annual leave to an employee is primarily a matter for the administrative office. 31 Comp. Gen. 581, 586 (1952); 32 id. 204 (1952); 40 id. 312 (1960); 54 id. 503 (1974); B-178441, June 18, 1973.

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We have recognized that a similar degree of discretion exists with respect to charges of absence to leave without pay. Thus, where an employee unjustifiably refuses to report for duty as assigned, we have held that the administrative office may legally charge that employee with leave without pay for periods during which no official duty is performed. 44 Comp. Gen. 274 (1964); B-160490, December 23, 1966; B-170566, October 12, 1970; B-183723, August 21, 1975.

Since the requirement to be transported to Fort Dix did not extend their regular work-hours or require them to perform added travel outside regular work-hours, it was properly within the Department of the Army's discretion to require its employees to perform their duties at Fort Dix prior to the effective transfer date. Therefore, the determination to place employees who refused to report for such transportation in a leave status was likewise within the Army's administrative authority.

With respect to Mrs. Blaicher's charge that the Army's policy in this regard was discriminatorily applied to her because of her earlier filing of a grievance against supervisory personnel, 5 C.F.R. § 771.105 (1975) provides in pertinent part that:

"(a) An employee, in presenting a grievance under an agency grievance system, shall:

"(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal \* \* \*."

Our Office, however, has no authority to inquire into personnel grievance matters, which are properly within the purview of the employing agency. B-183723, August 21, 1975.

Because of the considerable administrative discretion vested in the Department of the Army with regard to charging of leave and the fact that Mrs. Blaicher's charge of impropriety with respect to such charges is properly cognizable under agency grievance procedures, the disallowance of her claim for restoration of annual leave and payment for time charged to leave without pay is sustained.

PAUL G. DEMBLING

For the Comptroller General  
of the United States