



UNITED STATES GENERAL ACCOUNTING OFFICE  
WASHINGTON, D.C. 20548



OFFICE OF GENERAL COUNSEL

IN REPLY  
REFER TO: B-187020

NOV 1 1978

The Honorable Barbara Allen Babcock  
Assistant Attorney General  
Civil Division  
Department of Justice

Attention: Ms. Alfreda R. Bennett, Attorney  
Commercial Litigation Branch

Dear Ms. Babcock:

Subject: \_\_\_\_\_ v. United States  
Ct. Cl. No. 416-78

Reference is made to letter dated October 4, 1978 (file reference BAB:ARB:els 154-416-78), and statutory call form of October 3, 1978, requesting a report on the petition filed September 19, 1978, in the above-entitled case wherein the plaintiff in effect seeks reimbursement of \$736.15, the expenses he incurred in shipping his household goods to Bangkok incident to a permanent change of station.

Payment of the amount sought to be reimbursed was denied by Comptroller General in decision B-187020, January 24, 1977, a decision issued pursuant to the request of an authorized certifying officer of the Drug Enforcement Administration (DEA), Department of Justice, dated July 6, 1976. Copies of that decision and the certifying officer's request are enclosed. We assume you will receive a full report on the matter from the DEA which will include basic documentation regarding this claim. If complete documents are not available from the agency we will furnish further materials from our file.

The petition contains allegations relative to the shipment of personal effects by plaintiff, a DEA employee, incident to permanent change of station. Air shipment of unaccompanied baggage of up to 250 pounds and surface transportation shipment of 5,000 pounds net weight was authorized. Plaintiff further alleges, in effect, that through no fault by him his personal effects were improperly shipped and that the failure of the DEA to issue surface freight instructions or to place a pound limitation concerning air shipment in the Government bill of lading effectively eliminated the 250 pound limitation. Plaintiff further alleges in effect that the failures of DEA, the only authority that could issue surface

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freight instructions or negotiate the bill of lading, plus the negligence of the employees of the contract carrier in failing to follow petitioner's instructions to ship only 250 pounds gross weight by air freight, resulted in an excess of gross weight being air shipped, and that \$625.75 has been deducted from his salary as a result.

Even if the moving instructions given by DEA to the contract carrier were deficient, the United States could not be held liable for his excess moving expenses because, in the absence of specific statutory authority, the United States is not responsible for the erroneous actions of its officers, agents, or employees even though committed in performance of official duties. See United States v. United States, 148 U.S. 573 (1893); 44 Comp. Gen. 337, 339 (1964). Moreover, it is a well established principle that anyone entering into an arrangement with the Government takes the risk of having accurately ascertained that the agent who purports to act for the Government stays within the limits of his authority. Federal Crop Insurance Corp. v. ..., 332 U.S. 380 (1947).

Enclosed is a copy of our decision, B-189358, February 8, 1978, concerning a DEA employee indebtedness arising from excess cost of shipping of household goods which may give you some appropriate arguments regarding employee and carrier responsibility.

No record has been found of any claim or demand which would furnish the basis of a cross action against the plaintiff in this case.

Further inquiry concerning this matter may be addressed to me at telephone number 275-5422.

Sincerely yours,

/s/  
Neil Metcalf  
Attorney-Adviser

Enclosure