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**DECISION**



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

*J. Botaforno  
CP.*

FILE: B-188048

DATE: November 30, 1977

MATTER OF: Stephen P. Szarka - Relocation Expenses

- DIGEST:
1. Employee was transferred from Eglin AFB, Florida, to Beale AFB, California, under merit promotion program and was denied relocation expenses due to economy measures taken at Beale. He is entitled to relocation expenses. Paragraph C4100 of Vol. II of the JTR provides for such payments to employees transferred in the interest of the Government and Air Force has determined that merit promotion transfers are in the interest of the Government.
  2. Employee service agreement need not be executed where employee has remained in position for more than a year after transfer for which he is to be reimbursed. Although travel orders should ordinarily be issued for merit promotion transfer, such orders are not necessary where Comptroller General determines relocation expenses are allowable and decision is authority for payment.

This action is in response to a request for an advance decision from Captain S. C. Shoemaker, Jr., USAF, an Accounting and Finance Officer at Beale Air Force Base (AFB), California. Captain Shoemaker's request, forwarded to us through the Per Diem, Travel and Transportation Allowance Committee, PDTATAC Control No. 76-27, concerns Mr. Stephen P. Szarka's claim for relocation expenses he incurred incident to his transfer from Eglin AFB, Florida, to Beale AFB, California.

On August 13, 1975, the Civilian Personnel Office at Beale AFB issued an Air Force wide announcement of a vacancy for a Boiler Plant Operator, WG-5402-10, to be filled under the merit promotion program. Mr. Szarka, who was then employed as a Boiler Plant Operator, WG-5402-08, at Eglin AFB, responded to the

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announcement. Mr. Szarka was orally informed on November 3, 1975, that he had been selected for the position on the condition that he pay his own relocation expenses. The record before us reveals that the decision not to pay relocation expenses was the result of a determination made by officials at Beale that, due to budget constraints, relocation expenses would be authorized only when qualified candidates could not be recruited locally. Mr. Szarka was informed that there were local qualified candidates and that as a result Beale AFB would not pay his relocation expenses.

Mr. Szarka departed from Eglin AFB in a leave status and proceeded to Beale AFB without travel orders. He reported to work on November 16, 1975, and at that time a Standard Form 50, Notification of Personnel Action, was prepared, making his appointment official.

On February 16, 1976, Mr. Szarka wrote to Headquarters, USAF, contending that he was entitled to reimbursement for his relocation expenses pursuant to paragraph 14d, section 3351 of Air Force Manual 40-1 (now paragraph 3-7c(1), chapter 335-17 of the Air Force Supplement to the Federal Personnel Manual (FPM)) (see Increment 43, July 6, 1976), which provides in part as follows:

"Permanent change of station costs will be paid when an employee from outside the commuting area is selected under the merit promotion program. The cost involved in moving an employee from a different geographic area will be weighed in relation to his or her qualifications and the relative qualifications of available candidates from within the commuting area."

Mr. Szarka's letter was referred to the Beale AFB Civilian Personnel Officer who determined that he should not receive relocation expenses because his transfer had been for his own benefit, and paragraph C4100-1, Volume II of the Joint Travel Regulations (JTR), provides that "A permanent change-of-station movement will not be authorized at Government expense when it is primarily for the benefit of the employee or at his request."

The Base Commander at Beale AFB accepted the Civilian Personnel Officer's recommendations and by letter dated April 10, 1976, denied Mr. Szarka's claim. Subsequent to that action Mr. Szarka submitted vouchers for his relocation expenses to Captain Shoemake who has requested our decision on the following questions:

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"a. In view of paragraph C4100-2.6, Volume II, Joint Travel Regulations and the provisions of Section 5724a, Book I, FPM, Supplement 990-1, is Mr. Szarka's move to be construed as being for the benefit of the government?

"b. If the answer to question a is negative, does Mr. Szarka have any entitlements resulting from the uniformity of allowances discussed in Decision B-183979, 2 January 1976?

"c. If the answer to question a is affirmative, is the preparation of a Travel and Transportation Agreement and Permanent Change of Station Orders required as a precedent to the payment of allowances authorized for such moves?

"d. If the answer to question c is affirmative, should appropriate Travel Orders and Travel and Transportation Agreement now be executed?

"e. Since other, similar claims are pending, may your responses to the above questions be used in settling such future claims?"

Section 5724(a) of title 5, U.S. Code, provides for payment of travel and transportation expenses when the employee's transfer is in the interest of the Government. Paragraph C4100-2.6, Vol. II, JTR, provides in pertinent part:

"\* \* \* The following movements are considered to be in the interest of the Government:

\* \* \* \* \*

"6. for reassignment of a qualified employee to an activity where his services are needed including those cases in which the employee initiates the request for movement but such request is not necessarily the deciding factor."

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The Air Force has determined that employees transferred under the merit promotion program are transferred in the interest of the Government for, by paragraph 3-7c(1), chapter 335-17 of the Air Force Supplement to the FPM, supra, it provides payment of relocation expenses for such employees. As a result, absent any evidence that Mr. Szarka was not transferred pursuant to a merit promotion program, his transfer was in the interest of the Government and he is therefore entitled to reimbursement of his relocation expenses. The first question is therefore answered in the affirmative.

Captain Shoemake has asked whether it is necessary to prepare permanent change of station orders and whether Mr. Szarka must execute a service agreement before reimbursement may be made. Section 5724(i) of title 5, United States Code, requires that employees must agree in writing to serve for 12 months after their transfer in order to receive relocation expenses. However, because Mr. Szarka has been employed at Beale continuously since his transfer, he has served more than 12 months and it is not necessary that he execute a service agreement.

Although orders should ordinarily be issued for merit promotion transfers, it is not necessary to prepare permanent change of station orders in this situation. By 31 U.S.C. 74, the Comptroller General has authority to render decisions involving payments to be made by disbursing officers. Accordingly, Mr. Szarka may be reimbursed pursuant to this decision. We note that Mr. Szarka has submitted a voucher on which he has claimed reimbursement for temporary quarters, real estate expenses, transportation of household goods and miscellaneous expenses. If otherwise correct, payment may be made on all of these items.

With respect to the last question concerning similar claims, they should be settled in accordance with this decision.

Deputy

  
Comptroller General  
of the United States