

DECISION

18190 *Sargyn*
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-202822

DATE: May 21, 1981

MATTER OF: Private First Class Terry D. Trotman, USMC

[Entitlement of Military Member]
DIGEST: Member of the Marine Corps is not entitled to per diem allowance while performing temporary duty under instruction between date he completes basic training and date he receives orders naming permanent duty station since temporary duty station is only post of duty at that time and member is not in travel status for per diem purposes.

This case was presented to our Office by the Disbursing Officer, Marine Corps Air Station, Cherry Point, North Carolina, for advance decision as to the entitlement of Private First Class Terry D. Trotman, USMC, to per diem allowance for a period of temporary duty under instruction at the Naval Air Station, Jacksonville, Florida. The matter was assigned control number 81-12 and forwarded to us by the Per Diem, Travel and Transportation Allowance Committee. As explained below, he is not entitled to per diem during this period.

Effective January 24, 1980, Private Trotman was detached from the Marine Corps Recruit Station, Parris Island, South Carolina, and ordered to report to the Naval Air Station, Millington, Tennessee, for temporary duty under instruction. After completing that duty on May 30, 1980, Private Trotman was ordered to the 2d Marine Aircraft Wing, Cherry Point, North Carolina, for temporary duty under instruction beginning June 12, 1980, to be followed by further transfer by Headquarters Marine Corps. Effective July 12, 1980, Private Trotman was directed to report for temporary additional duty for approximately 5 weeks to the Naval Air Station, Jacksonville, Florida, under orders directing his return to Cherry Point upon completion of instruction. Further orders dated August 27, 1980, designated Cherry Point as Private Trotman's permanent duty station, effective September 3, 1980.

During his period of duty at Jacksonville, Private Trotman was advanced \$35 per day for living expenses. The Commanding Officer at Jacksonville had certified that

~~016994~~

115298

B-202822

adequate quarters were unavailable and that use of Government messing facilities was considered impracticable. The Disbursing Officer now questions Private Trotman's entitlement to the per diem allowance.

Section 404 of title 37, United States Code, provides in pertinent part that under regulations prescribed by the Secretaries concerned members of the uniformed services are entitled to travel and transportation allowances upon a change of permanent station, or otherwise, or when away from their designated post of duty. Paragraph M3050-1 of Volume 1, Joint Travel Regulations (1 JTR), provides that members are entitled to travel and transportation allowances only while actually in a "travel status;" temporary duty is included in the definition of travel status under 1 JTR para. M3050-2-1. The term "temporary duty" is defined in Appendix J, 1 JTR, as duty at a location other than the permanent station, at which a member performs temporary duty under orders which provide for further assignment to a new permanent station or for return to the old permanent station upon completion of the temporary duty. However, under para. M4201-13 of the same regulations, "[n]o per diem allowance is payable for periods of temporary duty performed by an officer or enlisted member who is ordered to active duty under orders which do not designate a specific permanent duty station to which the member is to proceed upon completion of the temporary duty."

The foregoing regulation embodies the holding in Califano v. United States, 145 Ct. Cl. 245 (1959), that travel status cannot exist for a member of the uniformed services in the absence of a designated post of duty from which travel is being performed. On the facts there presented, the Court of Claims held that orders directing a member to proceed from his home to a station for 4 months of indoctrination and further assignment to duty did not place him in a travel status at that station, since it was the only post of duty he had at that time.

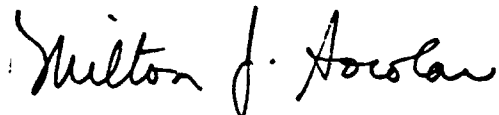
Applying Califano, we held in 39 Comp. Gen. 511 (1960) (Case 4), that a member ordered to active duty from his home, who is assigned to a station for temporary duty and further assignment, may not have the place at which the second or subsequent periods of temporary duty

B-202822

are performed considered as other than the member's only post of duty, to place the member in a travel status for per diem purposes. We concluded in part that a newly enlisted member who, on completion of basic training, receives orders to temporary duty and further assignment, is not entitled to per diem for the periods of temporary duty. See also 53 Comp. Gen. 740, 741 (1974).

In the present case, we conclude that Private Trotman was not entitled to receive a per diem allowance for his period of duty at Jacksonville. Because he had no other station designated as his permanent duty station, Jacksonville constituted his only designated post of duty and, thus, while serving there, he would not be traveling away from a permanent station. Consequently, Private Trotman was not in a travel status and payment of the per diem allowance was unauthorized.

We note, however, that Private Trotman was entitled to basic allowances for quarters and subsistence while at Jacksonville, due to the unavailability of quarters and mess facilities. See 53 Comp. Gen. 740, supra. Those amounts should be deducted from the per diem payments to determine his actual indebtedness.



Acting Comptroller General
of the United States