



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

31103

B-177455

June 22, 1973

Mr. Paul J. Grainger  
Authorized Certifying Officer  
Forest Service  
United States Department of Agriculture

Dear Mr. Grainger:

Your letter of April 12, 1973, requests that we reconsider the decision of January 2, 1973, B-177455, 52 Comp. Gen. 407 (1973), to you as an authorized certifying officer in which the claim submitted by Mr. W. Howard Johnson for reimbursement of travel expenses in the amount of \$2,583.10 was held to be not allowable. Your present request is based on additional information which has come to light in the case.

Prior to his retirement on February 5, 1971, Mr. Johnson was the Regional Forester of the Alaska region of the Forest Service with duty station in Juneau, Alaska. At the time of his retirement Mr. Johnson had satisfied the terms of his service agreement so as to be entitled to travel and transportation benefits for the relocation of himself, his family and household goods back to his actual place of residence at the time of assignment to duty in Alaska under the provisions of 5 U.S.C. 5722. You indicated in connection with your original submission that Mr. Johnson was encouraged by Forest Service officials to set a date for his return travel to the continental United States at the time of his retirement, but that he did not do so since he did not intend to return to the continental United States. You now state that Mr. Johnson's failure to set a date for return transportation appears to have been motivated by his desire to remain temporarily in the Alaska region so as to be available to advise and assist the new Regional Forester, to provide assistance to the Forest Service in connection with an important court case which was in progress at the time, and to participate as a member of the Federal Field Committee for the Development of Alaska. You further state "it appears that Mr. Johnson, with a sincere desire to give of himself, delayed his return to the Continental United States until such time as he felt he could offer no further assistance."

Government employees separated from service outside the continental United States are entitled to return travel and transportation expenses under provisions of 5 U.S.C. 5722 which are in part:

720145 091459

§ 5722. Travel and transportation expenses of new appointees; posts of duty outside the continental United States

(a) Under such regulations as the President may prescribe and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations--

(1) travel expenses of a new appointee and transportation expenses of his immediate family and his household goods and personal effects from the place of actual residence at the time of appointment to the place of employment outside the continental United States; and

(2) these expenses on the return of an employee from his post of duty outside the continental United States to the place of his actual residence at the time of assignment to duty outside the United States.

Implementing regulations relative to time limits for travel and transportation benefits under 5 U.S.C. 5722 were contained in section 1.3d of Office of Management and Budget (OMB) Circular No. A-56, revised, in force at the time here involved which provided in part as follows:

d. Time limits for travel and transportation. All travel, including that for the immediate family, and transportation, including that for household goods and personal effects allowed under these regulations, should be accomplished as soon as possible. The maximum time for beginning allowable travel and transportation will not exceed two years from the effective date of the employee's transfer or appointment \* \* \*

Section 1.3d of OMB Circular No. A-56 was further implemented concerning time limitations on travel and transportation by section 6543.52c-4 of the Region 10 Supplement to the Forest Service Manual promulgated in March 1970 by the Regional Forester, Mr. W. Howard Johnson, the present claimant, which reads in pertinent part as follows:

6543.52c - Conditions and Limitations.

4. Time Limits for Travel and Transportation. Return allowance from Alaska to continental United States.

\* \* \* \* \*

b. Termination of Employment. When an employee terminates, his travel and transportation must be incident to termination of his assignment. The date of return travel must be set at the time of termination and be within a reasonable time, normally within six (6) months. The travel of immediate family and transportation of household effects must begin within two (2) years from the date the employee begins his return. (28 C.G. 289) (Circular A-56, Sec. 1.3, item d) [Emphasis supplied.]

That regulation implements the decision 28 Comp. Gen. 285, 289 (1948), in which it was held that an employee separated overseas must return to the United States as a result of his separation and in a reasonable time thereafter in order to be eligible for payment of the expenses involved by the United States. On the basis of the information presented it appears that Mr. Johnson did not intend to return to the continental United States at the time he was separated or at any specific date thereafter. His exact intentions at the time of retirement are not clear from the record except to the extent that he knowingly refused to set a specific date for return to the continental United States as required by agency regulations. In the circumstances his decision more than one year after separation to move to the continental United States could not revive his right to reimbursement of the expenses involved.

Despite what may have been good motives, Mr. Johnson failed to comply with the requirements of law as interpreted in the decisions of this Office for travel to his home in the continental United States at Government expense upon separation. Therefore, we must affirm our earlier decision.

The voucher, with accompanying papers, which is returned herewith may not be certified for payment.

Sincerely yours,

Paul G. Dembling

For the Comptroller General  
of the United States