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DECISION



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

FILE: B-199643

DATE: September 30, 1981

MATTER OF: Department of the Army - Scheduling tour renewal travel

DIGEST: The Department of the Army has proposed a change of the JTR, Volume 2, which would allow employees on 36-month overseas tours to take renewal travel within a 1-year time frame; i.e., 6 months before through 6 months after completion of a 36-month tour provided that the renewal agreement is for duty in a 36-month or 24-month tour area. We find no statutory or regulatory bar to the proposed flexibility in length of overseas tours of duty, for the purpose of renewal travel expenses.

By letter dated June 4, 1980, the Honorable Joseph C. Zengerle, Assistant Secretary of the Air Force, requested an opinion of this Office in connection with the following proposal advanced by the Department of the Army for employees who are subject to a 5-year overseas service limitation:

"The Department of the Army has proposed a change of the JTR, Volume 2, which would allow employees on 36 month tours to take renewal travel within a one year time frame; i.e., 6 months before through 6 months after completion of a 36 month tour. The basis for the change is the fact that under current policy, even with tour reduction, as currently authorized, renewal travel may have to occur when children are in school, thus posing a problem when a family wishes to travel together."

We have no objection to the Army's proposal to amend the JTR, Volume 2, so as to accomplish the above-stated result, subject to the limitations stated below.

The letter noted that, in accordance with paragraph C4005-3a of Volume 2 of the Joint Travel Regulations (JTR), the 36-month period of service prescribed under an initial agreement may be reduced up to 6 months for the purpose of beginning authorized renewal agreement travel provided that

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the renewal agreement is for duty in a 36-month or 24-month tour area. When the initial agreement of 36 months is administratively reduced, the renewal agreement must prescribe a period of service that, when added to the number of months completed under the initial agreement, plus the number of months authorized as leave incident to the renewal agreement, will equal 60 months.

Thus, at the present time the initial agreement period may be reduced up to 6 months, provided that the renewal agreement period is correspondingly increased. However, under the present regulations, the initial period may not be extended. The Army's proposal would eliminate the difference and allow employees to take renewal travel up to 6 months after completion of a 36-month tour as well as up to 6 months before completion.

The Department of the Army's proposal also states that, in regard to the written agreement for an additional tour, Army believes that the length of the renewal tour to be served upon return to the overseas area is a matter within the discretion of each agency and that it would be within the prerogative of the Department of Defense to establish a "sliding scale" renewal tour requirement, the length of which would depend upon the time frame during which the employee performs renewal agreement travel. Army, therefore, would establish the length of the renewal tour as equal to 60 months (5 years), minus the sum of (a) the period of service completed under an initial transportation agreement, (b) the period of service completed under an administrative extension of the initial agreement, and (c) the period of time authorized as leave incident to the renewal travel.

The Department of the Army considers that allowing an employee to extend the period during which he could initiate renewal travel under 5 U.S.C. § 5728(a), would do nothing more than administratively extend the initial tour for that purpose, and that such an extension would not negate the employee's entitlement to separation travel under 5 U.S.C. § 5722(a)(2), after completion of the initial 3-year tour.

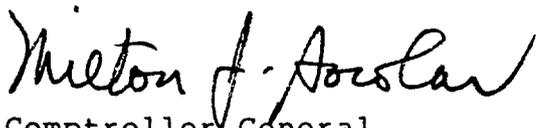
5 U.S.C. § 5722(c)(2), states in part that an agency may pay separation travel expenses only after the individual

has served for a minimum period of not less than 1 nor more than 3 years prescribed in advance by the head of the agency.

Based on the statutory language of 5 U.S.C. § 5728(a), we have held that an employee is entitled to expenses of home leave travel only when performed between the date of completion of one agreement and prior to serving another tour of duty pursuant to a new written agreement. 35 Comp. Gen. 101 (1955). See also 49 Comp. Gen. 425 (1970). Consistent with these rulings paragraphs C4151 and C4006-3b of Volume 2, JTR, provide that the signing of a renewal agreement is required when an eligible employee has completed the prescribed period of service for the overseas locality of assignment and requests transportation to place of actual residence for leave purposes prior to serving a new tour of duty at the same or a different overseas point of duty; and that the tour of duty under a renewal agreement begins on the date the employee reports for duty at the overseas duty station following his completion of renewal agreement travel.

We agree with the Department of the Army that the extension of the service overseas beyond the agreement period before leave travel is authorized is proper provided it does not negate the employee's entitlement to separation travel at the completion of the prescribed tour of duty. The period of time served beyond the prescribed tour and the leave time properly may be included as a factor in arriving at the period of service under the renewal agreement; however, they should not be included as part of the renewal period of service overseas. That period of service includes only the period overseas and must be for a minimum of 1 year.

We believe it would be appropriate to include in the initial agreement itself a provision which would reflect the flexibility desired on the time for undertaking leave traveltime. This would alleviate a problem that could arise through misunderstandings in this area between the employee and management.


Acting Comptroller General
of the United States