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PLM II

DECISION



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

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FILE: B-216822

DATE: March 18, 1985

MATTER OF: Henriette D. Avram

DIGEST: An employee who used airline bonus credits earned as a result of official travel to purchase an airline ticket for her husband is indebted to the Government for the cost of that travel. That indebtedness, arising out of the misuse of travel benefits belonging to the Government, may not be waived or otherwise excused even though the employee may have been erroneously advised by agency travel officials that there were no instructions regarding the personal use of such benefits.

The issue in this case is whether Henriette D. Avram, an employee of the Library of Congress, may be relieved from her indebtedness to the Government for the cost of air travel performed by her husband.^{1/} Ms. Avram used credits from an airline bonus program earned during official travel paid for by the Government to purchase a ticket for her husband to accompany her to Europe, where she was traveling on official business. That travel took place during late March and early April of 1984.

Ms. Avram asks to be relieved of this indebtedness on the basis that her personal use of the airline bonus credits was due to improper administration of the Library of Congress' travel program. She states that shortly before the trip in question she inquired about using the credits she had accumulated to pay for her husband's travel. According to Ms. Avram, the Library travel officer informed her that there were no instructions regarding the personal use of airline credits earned during official travel. She claims that her husband would not have accompanied her on the trip to Europe if she had not thought that the cost of his travel would be covered by the airline bonus program. She alleges that her use of the credits was due to improper advice and faulty administration of the travel program at the Library of Congress.

^{1/} This matter was submitted by Mr. William J. Welsh, Deputy Librarian of Congress, by letter of October 10, 1984.

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Bonus coupons, tickets, and credits received by an employee as a result of trips paid for, in whole or in part, by appropriated funds are the property of the Government and must be turned in to the appropriate agency official. Discount Coupons and Other Benefits, 63 Comp. Gen. 229 (1984). An employee who improperly makes personal use of such benefits must reimburse the Government for the full value of tickets and other benefits received. See John D. McLaurin, 63 Comp. Gen. 233 (1984).

The Library of Congress does not question the holding in 63 Comp. Gen. 229, supra, or its application in Ms. Avram's case. However, it requests relief on her behalf pointing out that at the time she purchased the ticket using the bonus credits, the Library had not received the above decisions and it did not circulate a warning regarding personal use of such benefits until May 1984, after the travel in question had been performed. While the travel officer does not recall Ms. Avram having contacted him regarding the use of airline bonus credits, it appears that his reference materials did not contain the General Services Administration regulation which provides that travel promotional materials such as bonus flights or credits are to be accepted on behalf of the Government and relinquished to an appropriate agency official. See 41 C.F.R. § 101-25.03 as amended, 48 Fed. Reg. 48231, October 18, 1983.

The bonus credits were earned incident to official travel and, as such, were the property of the Government. They were improperly used by Ms. Avram for personal travel and, therefore, she is indebted to the Government for the full value of the benefit received. John D. McLaurin, 63 Comp. Gen. 233, supra. Purchase of the ticket with the bonus credits occurred after the publication of our decision and after publication of the regulation promulgated by the General Services Administration. Therefore, neither the employee's failure to realize the regulation was in effect nor the Library's failure to so inform the employee, affects the debt owed the Government.

The issue presented is whether or not the employee may be granted relief from that indebtedness. We find no authority to grant the relief requested even though the employee may have been misled regarding her responsibility to account to the Government for the bonus credits she accumulated.

The Comptroller General is authorized by 5 U.S.C. § 5584 to waive certain claims if collection would be against equity and good conscience and not in the best interest of the United States. Frederick D. Crawford, 62 Comp. Gen. 608 (1983). That authority, however, is limited to claims arising out of an "erroneous payment of pay or allowances, other than travel and transportation expenses and allowances * * *." Since the claim against Ms. Avram arises out of her unauthorized use of travel benefits belonging to the Government, it is a claim for an erroneous payment of travel expenses that is not subject to waiver under 5 U.S.C. § 5584; James D. Belknap, B-188597, January 15, 1979.

We recognize that Ms. Avram may have been given erroneous advice by the Library's travel office as to the existence of regulations limiting her personal use of airline bonus credits earned on official travel. However, it is a well-settled rule that the Government may not be bound by the erroneous advice of its agents. E. Paul Tischer, M.D., 61 Comp. Gen. 292 (1982). Such advice, therefore, would not constitute a basis to excuse the debt. This is so even though she may have misunderstood, based on that erroneous advice, that she was authorized to make personal use of the bonus credits. The travel officer had no authority to allow personal use of the Government's property, and the Government cannot be bound beyond the actual authority conferred upon its agents by statute or regulation. See Dr. Frank A. Peak, 60 Comp. Gen. 71 (1980).

Since there does not appear to be any authority under which the employee may be granted relief from the indebtedness or waiver of the debt, the request for approval of relief is denied. Ms. Avram must pay the Government the full value of the ticket.

for Milton J. Dowd
Comptroller General
of the United States