



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Frayne W. Lehmann

**File:** B-227534.4

**Date:** November 5, 1990

### DECISION

Mr. Frayne W. Lehmann, a former employee of the Navy, seeks reconsideration of our prior decision sustaining disallowance of his claim for reimbursement for expenses incurred in shipping his privately owned vehicle (POV) to Pearl Harbor, Hawaii, incident to a permanent change of station. That disallowance was based on the fact that Mr. Lehmann's travel orders specifically stated that no overseas shipment of a POV was authorized, based on the discretionary authority vested in the authorized official by the provisions of 5 U.S.C. § 5727(b)(2) and the applicable regulations.<sup>1/</sup> As explained below, Mr. Lehmann's arguments do not provide a basis for allowance of his claim.

Mr. Lehmann asserts that the Navy had in fact approved shipment of his POV as being in the best interest of the government, contrary to our statement in our earlier decision that the Navy had not done so. In support of this assertion Mr. Lehmann points to a Navy message dated August 9, 1985, wherein it is stated that the Navy "will reimburse Mr. Lehmann for per diem and mileage expense of driving POV to port" in accord with Volume 2 of the Joint Travel Regulations (JTR), paragraphs C4250 and C4300. Further, Mr. Lehmann notes that his travel orders dated August 15, 1985, also provided in section 7 "Mode of Transportation" for the use of a POV as advantageous to the government. However, what Mr. Lehmann did not note is that section 15 of his travel orders specifically stated that no overseas shipment of a POV was authorized. Likewise, the priority message dated July 23, 1985, sent by the Navy to Mr. Lehmann's prior duty station, specifically requested that he be advised that shipment of his POV was not authorized.

We note that two separate and distinct travel allowances are involved and that no inconsistency exists when an employee is

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<sup>1/</sup> Frayne W. Lehmann, B-227534.3, Feb. 21, 1990.

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authorized a mileage allowance for travel by POV, in whole or in part, to his new duty station,<sup>2/</sup> but is not authorized overseas shipment of his POV.<sup>3/</sup> The authorization to which Mr. Lehmann refers was for the use of his POV to travel to the port of embarkation. The travel allowance for which Mr. Lehmann claims reimbursement, but as indicated above was clearly not authorized, was to ship his POV overseas at government expense. Once the employee arrives at the port he may have his POV shipped at his own expense, and this is apparently what Mr. Lehmann elected to do.

Pursuant to 5 U.S.C. § 5727(b) (1988), an employee's POV may be transported abroad at government expense only if the head of the agency or his designee determines that it is in the interest of the government for the employee to have the use of a POV at his post of duty outside the continental United States. See 2 JTR paras. C11001 and C11002 (Aug. 1, 1985).<sup>4/</sup> Since that determination is a matter of agency discretion, an approving official may refuse to authorize transportation of an employee's POV upon a determination that it would not be in the government's interest. In the absence of relevant evidence presented in the record that the determination of the authorized official in denying Mr. Lehmann transportation of his POV at government expense amounted to an abuse of the discretionary authority provided by 5 U.S.C. § 5727(b), there is no basis to allow the claim. Daniel Moy, B-192445, Nov. 6, 1978.

Mr. Lehmann alleges that the agency determination to deny him reimbursement for shipment of his POV amounted to abuse of discretion and was discriminatory since the commanding officer maintained a practice not to allow any civilian employee to ship his POV to Pearl Harbor at government expense, while allegedly authorizing similar requests of military members.

We have no specific information about POV policy regarding military members at Pearl Harbor, but, even if Mr. Lehmann is correct and the Navy did follow a different policy with regard to military members, the statutory authority for military members, in 10 U.S.C. § 2634 (1988), is different from the

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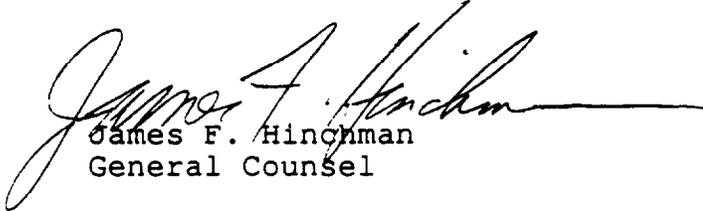
<sup>2/</sup> This is provided for in 2 JTR "Part F: Allowances For Use of Privately Owned Conveyance For Permanent Duty Travel" in paragraph C4250 et seq.

<sup>3/</sup> This is governed by 2 JTR, Chapter 11: "Transportation of Privately Owned Motor Vehicles" in paragraph C11000 et seq.

<sup>4/</sup> See also FTR, para. 2-10.2c (Supp. 1, Sept. 28, 1981), incorp. by ref., 41 C.F.R. § 101-7.003 (1985).

statutory authority for civilian employees in 5 U.S.C. § 5727(b)(2). The policy for the shipment of POVs for military members does not control the policy established pursuant to different authority for civilian employees. See Michael J. Patnode, B-214942, Oct. 5, 1984.

Accordingly, Mr. Lehmann's claim may not be allowed.



James F. Hinchman  
General Counsel