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Comptroller General
of the United States
Washington, D.C. 20548

Decision

Matter of: William B. Cober

File: B-249930.2

Date: August 19, 1993

DIGEST

Under the Federal Travel Regulation, 41 C.F.R. § 301-3.3(d)(1) (1992), the government's policy is that employees shall use coach-class or equivalent air accommodations. Premium-class air accommodations (such as business or first-class or equivalent accommodations) may be used only under the specified circumstances listed in 41 C.F.R. § 301-3.3(d)(3) (1992). In this case, none of the specified circumstances were fulfilled and the employee chose to use business class without authorization. Thus, his claim for reimbursement of the higher business-class airfare is denied.

DECISION

Mr. William B. Cober requests that we reconsider our decision, William B. Cober, B-249930, Jan. 27, 1993, which partially denied his claim for reimbursement of travel expenses since he used business class rather than coach class, without authorization, on a return flight from Truk, commencing on January 12, 1991.[1] For the following reasons, we affirm our previous decision and deny Mr. Cober's claim.

Mr. Cober is a Disaster Assistance Employee of the Federal Emergency Management Agency (FEMA), serving under an intermittent appointment in the excepted service. On December 14, 1990, the President declared that a major disaster existed in Truk as a result of Typhoon Owen. On that same day, FEMA contacted Mr. Cober, who was vacationing with his family in Hawaii, and directed him to proceed to Truk immediately. This was done pursuant to Official Combined Travel Authorization, No. 886, dated December 14, 1990. While this travel order permitted travel by business class

[1]The amount of reimbursement which was denied is $513, the difference between the cost of business class and coach class, based on government rates.

to the disaster site on Truk under certain conditions, it clearly stated that reimbursement for airfare returning from the disaster site was limited to coach class.

On January 7, 1991, another FEMA Disaster Assistance Employee, the program support officer, erroneously informed Mr. Cober that business-class travel at government expense was permissible for return flights home from the disaster site. On January 8, 1991, Mr. Cober purchased a business-class ticket for his return flight to San Diego, California, which was scheduled for January 12, 1991, at 2 p.m., since that was the only ticket then available for that flight.[2]

On January 11, 1991, a FEMA employee who had responsibility for travel spoke on the telephone with Mr. Cober at the Disaster Assistance Center on Truk and advised him that business-class travel was not authorized for his return flight home. On January 12, 1991, about 6 hours before his flight was to depart, Mr. Cober received a copy of the relevant travel order which specifically states that "airfare returning from the disaster [in Truk] is coach."[3] Later that same day, Mr. Cober boarded the plane for his return flight home, traveling business class despite FEMA's policy at that time prohibiting return travel from disaster sites by business class at government expense. On or about January 23, 1991, FEMA reimbursed Mr. Cober's other travel and transportation expenses, but partially denied his claim for his return flight from Truk by deducting $513 from the amount which Mr. Cober claimed. This amount is the difference between the cost of business class and coach class, based on government rates.

In his request for reconsideration, Mr. Cober contends again that he was erroneously informed on January 7, 1993, that he could be reimbursed for business class, and that he had booked the last available seat on January 8, 1993, for the flight scheduled for January 12, 1993. He thus requests reimbursement of the $513 which FEMA denied.

The Federal Travel Regulations (FTR), 41 C.F.R. § 301-3.3(d) (1992), in relevant part, provides:

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[2]FEMA now advises that the business-class ticket for the flight on January 12, 1991, was the only ticket then available for that flight.

[3]Official Combined Travel Authorization, No. 886, dated December 14, 1990.

> "(d) Airline accommodations--(1) Policy. It is the policy of the Government that employees who use commercial air carriers for domestic and international travel on official business shall use coach-class or equivalent accommodations. Premium-class air accommodations (such as business or first-class or equivalent accommodations) may be used only as permitted in paragraph (d)(3) of this section."

Under this FTR provision, the government's policy is that employees shall use coach-class or equivalent air accommodations, and premium-class air accommodations may be used only under the specified circumstances listed in 41 C.F.R. § 301-3.3(d)(3) (1992). Stephen G. Burns, 70 Comp. Gen. 437 (1991). From the record in this case it is quite clear that none of those specified circumstances were fulfilled.[4] Rather Mr. Cober chose to use business class, without authorization, despite having been informed before his flight by his agency, both verbally and in writing, that government reimbursement for his return trip was limited to coach class.

Furthermore, even though Mr. Cober was originally erroneously informed, he was given the correct information both verbally and in writing before his return flight on January 12, 1991. In any event, all federal employees are chargeable with at least constructive knowledge of the federal statutes and regulations concerning travel and relocation of employees. The FTR, published in 41 C.F.R. Parts 301-1.1 to 304-2.4 (1992), has the force and effect of law and may not be waived or modified by the employing agency or our Office, even under extenuating circumstances. See Johnnie M. Black, B-189775, Sept. 22, 1977. Also, payments of money from the federal treasury are limited to those authorized by statute, and even erroneous advice or information given by a government employee to a claimant cannot estop the government from denying benefits not otherwise permitted by law. Office of Personnel Management v. Richmond, 496 U.S. 414 (1990), and cases cited therein. See also Riva Fralick, 64 Comp. Gen. 472 (1985).

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[4]We note that the instant case the regularly scheduled flights did not provide only premium-class accommodations, as 41 C.F.R. § 301-3.3(d)(3)(i) (1992) would require for use of premium-class accommodations. Rather, the particular flight on January 12, 1991, for which Mr. Cober was scheduled did not have any more business-class accommodations available. Also, none of the other conditions for using premium-class accommodations in 41 C.F.R. § 301-3.3(d)(3)(ii) (1992) were fulfilled here.

Finally, Mr. Cober contends that on January 8, 1991, when he purchased his ticket he was told by the reservationist at Truk Travel Ltd. that he had the last available seat in either coach or business class. However, Mr. Cober's travel was still contrary to the FTR, as demonstrated above, and even if he would have had to delay his departure for a day or two, his expenses would have been less than $513.

Accordingly, we affirm our previous decision and again deny Mr. Cober's claim.

for James F. Hinchman
General Counsel