



UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

OFFICE OF GENERAL COUNSEL

B-219517

March 24, 1986

Mr. Robert C. Myers
Chief, Transportation Division
Room 1048-A, N.S.
Department of State
Washington, D.C. 20520

Dear Mr. Myers:

We have been asked by Mr. Kenneth Brubaker of the National Security and International Officers Division, to provide a response to your letter of July 2, 1985, raising questions concerning the separation travel entitlements of two retired Foreign Service officers. The Comptroller General is not issuing a decision because the issue raised in Mr. case is well settled by Comptroller General decisions. However, we hope that the information set forth below will assist you in responding to Mr. Dwor's correspondence. Regarding Mr. Richard D. Forster's question, having been separated in the last day of June, it appears that the 18-month limitation would require his travel to be performed by the second December following separation.

Mr. has indicated that he was separated on May 31, 1979, from his position with the Foreign Service in Rome. Having been advised by a State Department official that his eligibility for return travel and transportation could be extended on a year-to-year basis for an indefinite period, Mr. entered into a 3-year contract for overseas employment with a United States corporation doing business in Rome. In the Spring of 1980, when Mr. applied for an extension of his return travel and transportation eligibility, he was advised that he could not be granted an extension beyond October 31, 1980, 18 months from the date of his separation. In 1984, the Committee on Exceptions to the Foreign Service Travel Regulations denied Mr. request for an additional extension.

Approximately 1 year prior to Mr. separation the Comptroller General had issued a decision concerning a Foreign Service employee whose return travel and transportation eligibility had been extended by the Department of State for more than 7 years. Robert R. Schott, 57 Comp. Gen. 387 (1978), copy enclosed. Apparently, the official who first advised Mr. was not aware of this decision in which the Comptroller General held that the Department of State did not have authority to extend the 18-month period within which separated Foreign Service personnel are

required to begin return travel and transportation. That holding was based upon the limiting language of 6 Foreign Affairs Manual (FAM), 132.2-2 and upon a consideration of the authority contained in 6 FAM 121.2-4 to grant exceptions to the Foreign Service Travel Regulations. The Schott case was confirmed in Teresita G. Bowman, B-212278, September 2, 1982, copy enclosed.

The regulation applied in those decisions, 6 FAM 132.2-2, still provides that the limitation for beginning return travel and transportation incident to separation shall not be extended beyond 18 months after the employee's last day in a pay status. While 6 FAM 121.1-4 was revised in 1984, the basic authority to grant exceptions to the Foreign Service Travel Regulations was not extended to accommodate situations such as Mr. . Thus, our holdings in the cited cases would still preclude the granting of an extension beyond 18 months.

We recognize that Mr. may have relied upon erroneous advice he received from a State Department official at the time he was separated from the Foreign Service. However, the United States is not liable for the erroneous actions of its officers, agents or employees, even though committed in the performance of their official duties. See for example, in Peter E. Donnelly, B-188292, July 8, 1977, in which the Comptroller General denied the employee's claim for shipment of household goods even though he erroneously had been granted an extension of the period to commence shipment by an official who believed he had authority to grant such an exception to the applicable time limit.

We hope that the above discussion will be of assistance. In the event that Mr. feels that the cited precedents do not apply to his situation, after he has incurred return travel expenses, he may submit a claim to our Claims Group, Accounting and Financial Management Division, in accordance with the procedures set forth in 4 C.F.R., Part 31, copy enclosed.

Sincerely yours,



Edwin J. Monsma
Assistant General Counsel

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