



ASSISTANT COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

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FEB 12 1951

Major Roy G. Johnston, FC

Through Office of the Chief of Finance

Department of the Army

FEB 12 1951

Dear Major Johnston:

By 6th indorsement of December 27, 1950, the Chief of Finance, Department of the Army, referred your letter of September 22, 1950, to this Office for advance decision as to whether you are authorized to make payment on the voucher, submitted therewith, covering an allowance at the rate of 3 cents per mile for travel performed by Private First Class, from Los Angeles, California, to Fort Lewis, Washington, and return.

It appears that after arriving at Camp Stoneman, California, from overseas, Special Orders No. 193, dated July 12, 1950, were issued, paragraph 304, of which directed the enlisted man to proceed on a permanent change of station to Fort Lewis, Washington, 30 days' delay en route at Los Angeles, California, being authorized therein. However, on July 13, 1950, and prior to his departure from Camp Stoneman, so much of such orders as pertained to him, was deleted therefrom by paragraph 313, Special Orders No. 194, and on July 15, 1950, paragraph 271, Special Orders No. 196, directed him to proceed to Fort Ord, California, and report for duty at the termination of travel time and

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30 days' emergency leave granted therein. Each of the foregoing orders were issued at Camp Stoneman. He states that on July 18, 1950, he received at Los Angeles a telegram from the Commanding General, Second Infantry Division, Fort Lewis, Washington, stating: "LEAVE CANCELED. PROCEED TO FORT LEWIS IMMEDIATELY"; that he left Los Angeles on July 21 and after arriving at Fort Lewis two days later and explaining the circumstances, he was advised that notification of the revocation of the orders of July 12 had not been received; that after such notice was received and an exchange of dispatches with Camp Stoneman and Fort Ord, had verified his status under the orders of July 15, he was told that he could continue his furlough and report at Fort Ord as directed in such orders; and that he then returned to Los Angeles. A certificate dated July 30, 1950, and signed by Captain J. L. Swithersan, FA, Adjutant, Second Replacement Company, Second Infantry Division at Fort Lewis, states that the enlisted man reported at that station pursuant to the above-mentioned telegram and that he "will depart this station 1600 hrs 30 July 1950."

While the orders of July 12, directing the enlisted man to proceed to Fort Lewis had been revoked, the above-mentioned telegram did not disclose the orders on which it was based but merely cancelled his leave and directed him to proceed immediately to that place. Although such telegram appears to have been dispatched under a mistake of fact, the enlisted man had no knowledge of such mistake and it appears that he acted reasonably in complying therewith. As soon as the mistake was discovered after his arrival at Fort Lewis, he was told to return to

his leave address. In view of all the circumstances, the travel from Los Angeles to Fort Lewis, and return, may be regarded as having been performed in the public interest and he is entitled to the monetary allowance authorized by law incident to such travel. Cf. v. United States, 37 C. Cls. 332 and _____ v. United States, 43 C. Cls. 170.

Accordingly, payment on the voucher, which is returned herewith, is authorized, if otherwise correct.

Very truly yours,

Assistant Comptroller General
of the United States

Enclosure