



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

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August 29, 1973

Mr. James W. Bordas
Authorized Certifying Officer
National Oceanic and Atmospheric Administration
U. S. Department of Commerce
Rockville, Maryland 20852

Dear Mr. Bordas:

This refers to your letter of June 6, 1973, reference AD562, with enclosure, requesting a decision from our Office whether your agency may/credit forfeited annual leave to the leave account of Mr. Aubrey J. Bentley, an employee of the Weather Service Office, Tucson, Arizona.

Mr. Bentley indicates that when he was stationed in Alaska he was entitled to accumulate 30 days annual leave per year and had accumulated the maximum ceiling of 90 days at the end of the 1945 leave year. During the summer of 1946 he requested 90 days annual leave but his request was denied. At Thanksgiving time that year he did take 2 days annual leave which he states left him with 28 days over his ceiling at the end of the 1946 leave year which was forfeited. Although leave records are not available to you which would verify Mr. Bentley's statements he has produced evidence indicating that he did lose a substantial amount of annual leave at the end of the 1945 leave year as a result of an agency determination that he could not be granted his accumulated annual leave.

Section 1 of the act of March 14, 1936, ch. 140, 49 Stat. 1161, as amended, 5 U.S.C. 30b (1946 ed.), pertaining to the accumulation of annual leave in 1946 provided in pertinent part as follows:

"* * * all civilian officers and employees of the United States wherever stationed * * * shall be entitled to twenty-six days' annual leave with pay each calendar year, exclusive of Sundays and holidays: Provided, That the part unused in any year shall be accumulated for succeeding years until it totals not exceeding sixty days: Provided further, That during the national emergency declared by the President of the United States on September 8, 1939, the leave unused by the employees of the departments, independent establishments, and agencies * * * shall be accumulated for succeeding

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years until it totals not exceeding ninety days * * *. The annual leave herein authorized shall be granted at such times as the heads of the various departments and independent establishments may prescribe."

There is no authority for payment for or recredit of annual leave which may be forfeited by reason of the operation of the above law. Compare 22 Comp. Gen. 704 (1943) in which the recredit of previously forfeited leave up to the 90-day ceiling proscribed by the act of December 17, 1942, 56 Stat. 502, was discussed. This rule is applied whether the forfeiture occurred by reason of the agency refusing to grant leave, as alleged here, or otherwise. Cf. 33 Comp. Gen. 85 at page 87.

Therefore, Mr. Bentley is not entitled to a recredit of the leave in question nor would he be entitled to a lump-sum payment for such leave.

Sincerely yours,

Paul G. Dehling

For the Comptroller General
of the United States

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