DECISION

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

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FILE: B-185099

DATE: JUN 1 1976

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MATTER OF: Dependent travel allowances

DIGEST: Member was transferred from sea duty to shore duty with the home port and home yard of the vessel being at the same location as the shore duty station. Since the locations are the same, no authority exists under present law which would permit transportation of dependents and household goods at Government expense incident to member's transfer.

This action is in response to letter dated September 26, 1975, from the Assistant Secretary of the Air Force (Manpower and Reserve Affairs) requesting a decision concerning the propriety of making payment for transportation of dependents from a place other than the home port where a member is transferred from a vessel to a shore station with the home port (and presumably the home yard) of the vessel and the shore station being at the same location. That request was assigned Control No. 75-28 and was forwarded to this Office by letter dated October 6, 1975, from the Per Diem, Travel and Transportation Allowance Committee.

The information supplied indicates that a member, prior to April 1, 1973, the effective date of change number 242 of the Joint Travel Regulations (JTR), was transferred from a shore station to a vessel and opted to have his dependents transported to a location other than the home yard or home port of his newly assigned vessel within his entitlement for transportation of dependents to the home yard or home port of that vessel. When the member was relieved of sea duty, sometime after April 1, 1973, he was assigned to shore duty at the location of the home port of his former vessel. It is stated that change number 242, changed the regulations shown in the decision logic table 7-B-7061, Rule 3, 1 JTR, to state that when a member is ordered on a permanent change of station from sea duty to shore duty, transportation of dependents is authorized from a designated place (as that term is defined in paragraph M7001, 1 JTR) to the "new shore station" and from the old home port or home yard to the "new shore station."

Under the pertinent statute, 37 U.S.C. 406 (1970), a duly authorized permanent change of station fixes the member's right to transportation of his dependents and household effects, within prescribed limitations that is, not more than the distance authorized for the military member himself. The real test then is whether or not on a particular permanent change of station, the member would be entitled to travel and transportation costs. It has been held that a change in duty assignments from one point to another within the corporate limits of the same city does not entitle a member to travel and transportation allowances in connection with such a transfer. See 36 Comp. Gen. 113 (1956).

The general rule long established by statute and decisions of this Office is that the maximum amount reimbursable on account of dependent travel between points other than the old and new station could not, in any event, exceed the amount it would have cost the Government had travel been between the old and the new permanent stations. 34 Comp. Gen. 467 (1955), and 46 Comp. Gen. 852 (1967).

In 43 Comp. Gen. 639 (1964) this Office in ruling on a similar case involving a member's transfer from sea duty to sea duty when the vessels involved had identical home ports and yards stated:

> "The present statutory authority for transportation of dependents and household effects, 37 U.S.C. 406, continues the concept that the home port or home yard of a vessel has the same status as any other duty station with regard to entitlement to transportation of dependents and household effects at Government expense. Therefore, it is our view that there is no authority under present law which would permit transportation of dependents and household effects at Government expense incident to a member's transfer from sea duty to sea duty when the vessels involved have identical home yards and ports since, in such case, there is no change of station so far as transportation of dependents and household goods is concerned. In arriving at this conclusion there have not been overlooked the provisions of section 406(e)(3) to the effect that when orders directing a change of permanent station for the member concerned have not been issued, or when they have been

> issued but cannot be used as authority for the transportation of his dependents, etc., the Secretaries concerned may authorize the movement of the member's dependents at Government expense on the basis prescribed. Such provisions, however, may be used only under unusual or emergency circumstances, including those in which the member is serving on sea duty. It is our understanding that this provision was not intended to constitute authority for the issuance of regulations providing for the movement of dependents at Government expense in the circumstances under consideration and it is not contended in the Under Secretary's letter that the provisions constitute such authority."

The pertinent parts of section 406 of title 37, United States Code, cited in the above case have not been amended since that decision was rendered. It is our view that although the facts differ somewhat, the basic issue is the same; namely the change of duty stations within the corporate limits of the same city. Such a transfer whether it be from sea duty to sea duty, from sea duty to shore duty, from shore duty to sea duty, or from shore duty to shore duty does not provide authority which would permit transportation of dependents and household goods at Government expense since, in such cases, there is no change of station so far as transportation of dependents and household goods is concerned. See 1 JTR, Appendix J (definition of permanent station) and B-167315, July 30, 1969.

In conformity with 43 Comp. Gen. 639, 1 JTR, paragraph M7058, specifically provides that transportation of dependents at Government expense is authorized for travel performed from other than the old permanent station to the new permanent station "not to exceed the entitlement from the old to the new station." See also the similar provisions of 1 JTR, paragraphs M7057 and M7059. It is also noted that the rules in decision logic table 7-B-7061 refer to transportation of dependents from a designated place to a "new" shore station. Since in this case the home port and the shore station are the same, there is no "new" station for the purpose of dependent travel.

The principle as renunciated in a decision of this Office, B-182387 of April 17, 1975, cited in the submission differs from

the present case. In that decision, the member was transferred from one vessel to another both having different home yards. Since the home yards were different, in accordance with 37 U.S.C. 411(d) (1970) the transfer was regarded in that case as a permanent change of station for purposes of dependent transportation and dislocation allowances.

Therefore, it is our view that, notwithstanding the subsequent changes in regulations, the member has no rights to further transportation of dependents to the shore duty station since that duty station is in the same location as the old home port. In such case, there is no change of station so far as transportation of dependents and household goods is concerned. To hold otherwise would be to interpret the regulations as being out of harmony with the law and decisions of this Office, and thus, invalid.

The question is answered accordingly.

R.F.KELLER

Deputy Comptroller General
of the United States