

P.L. I

DECISION



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

FILE: B-192105

DATE: May 16, 1979

MATTER OF: *personal name* Michael J. DeAngelis - [Reimbursement of
~~relocation expenses~~]

10,208

DIGEST:

Air Traffic Controller requested and was granted reassignment from Houston, Texas, to Cleveland, Ohio, under FAA's Internal Placement Program, which is a voluntary, noncompetitive program. Employee claims relocation expenses on basis that he did not waive his entitlement, that his request for reassignment should not, by itself, be a basis for finding that transfer was for his convenience, and that vacancy existed under a Merit Promotion Plan announcement. Claim must be denied since employee requested transfer, FAA determined that transfer was for employee's convenience, and the employee was not authorized relocation expenses.

This decision concerns the entitlement of Mr. Michael DeAngelis to relocation expenses incident to his transfer from Houston, Texas, to Cleveland, Ohio.

ABC00030 Mr. DeAngelis, an air traffic control specialist employed by the Federal Aviation Administration, requested and was granted a lateral reassignment from Houston, Texas, to the Cleveland Hopkins Air Traffic Control Tower. His request for reassignment and his appointment were under the provisions of the Federal Aviation Administration's (FAA) Internal Placement Program. That program is a voluntary, noncompetitive program by which employees may seek reassignment to other FAA positions at the same grade level for which they are qualified. No relocation expenses were authorized for Mr. DeAngelis.

CX/60017F The Professional Air Traffic Controllers Organization, on behalf of Mr. DeAngelis, argues that he did not accept as a condition of his selection to Cleveland Hopkins Tower the waiver of his entitlement to reimbursement for travel, real estate, or relocation expenses. He notes that the FAA's Internal Placement Handbook states that an employee's request for reassignment is not in itself a basis for determining that the transfer was for the personal convenience of the employee. It is further argued that he was selected for an existing Merit Promotion Plan vacancy.

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Noting that his transfer was a lateral transfer, it is concluded that the transfer was in the interest of the Government and that relocation expenses should be allowed.

The FAA reports that Mr. DeAngelis' reassignment was initiated by his voluntary application and that he was officially advised that he would be required to bear the costs of the transfer. In fact, the agency states that he originally declined the transfer after being so informed, but subsequently changed his mind. The agency advises us that the transfer was determined to be for his convenience rather than in the best interest of the Government since it was at his request and was not made under the Merit Promotion Plan procedures.

There is no general automatic entitlement to reimbursement of travel and relocation expenses upon an employee's change of station. Instead, reimbursement of such expenses under 5 U.S.C. 5724 and 5724a is conditioned upon a determination by the head of the agency concerned or his designee that the transfer is in the interest of the Government and is not primarily for the convenience or benefit of the employee. See para. 2-1.3, Federal Travel Regulations. See also Matter of David G. Goodyear, B-187687, June 14, 1977, and Matter of Paul J. Walski, B-190487, February 23, 1979.

The record in this case clearly shows that Mr. DeAngelis had not been authorized a transfer at Government expense. The question that remains is whether there exists a written FAA policy that would require reimbursement of relocation expenses in this case.

Paragraph 300f of the Internal Placement Handbook, FAA Order 3330.9, is set forth below:

"Travel and Transportation Costs. Transportation costs incurred in a change of headquarters or duty station will be paid by the Government when a position change is considered to be in the best interests of the Agency. When the request for reassignment clearly indicates that the change of location is primarily for the convenience or benefit of the employee, travel and transportation costs shall not be allowed. An employee's request

for assignment to a particular location is not in itself a basis for determining that the position change is primarily for his convenience. When an employee is selected for a vacancy because he is the best qualified person available, the position change is normally considered to be in the best interests of the Agency. The operating personnel office having jurisdiction over the vacancy to be filled makes the determination as to whether the position change is primarily in the interest of the Agency."

We find nothing in this paragraph that would require the FAA to make a determination that Mr. DeAngelis' transfer was in the interest of the Government. There is no indication that Mr. DeAngelis was selected for the position at the Cleveland Hopkins Tower because he was the best qualified. On the contrary, Mr. DeAngelis was advised upon receipt of his request for reassignment that:

"[Y]our request for internal placement has been received and initial consideration, prior to appointment from the Civil Service Certificate of Eligibles, will be given for the position in which you have expressed an interest. * * *
[y]ou will be given consideration by the selecting official prior to advertising under Merit Promotion procedures."

Thus, it is clear that Mr. DeAngelis' selection under the Internal Placement Program constituted an exception to the Merit Promotion Plan. In Matter of D'Alauro, B-173783.192, December 21, 1976, we held that a lateral transfer to a position having no greater promotion potential than the employee's former position was outside the agency's merit promotion plan, and hence that the transfer was for the employee's convenience and relocation expenses were not allowable. We believe that decision is applicable to the instant case.

Accordingly, we find the FAA's determination that Mr. DeAngelis' transfer was for his own convenience and not in the interest

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of the Government to be fully supported by the record. The claimed expenses are not allowable.



Deputy Comptroller General
of the United States