

**DECISION**

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

29930

**FILE:** B-215123**DATE:** December 4, 1984**MATTER OF:** Petty Officer Douglas W. Smith, USN**DIGEST:**

A provision of the Uniformed Services Pay Act of 1981 authorized a new travel allowance for service members transferred overseas to reimburse them for the expenses of taking their automobiles to and from ports of shipment. The Congress did not intend that this provision be interpreted to allow reimbursement for trips taken over unnecessarily circuitous routes to and from ports selected for personal convenience, for example, to accommodate travel to a desired leave location. Hence, a transferred Navy petty officer who was ordered to proceed from California to Charleston, South Carolina, to board a military flight to a new duty station in Panama, and who could have delivered his automobile to the port in Charleston for overseas shipment, may not be allowed additional travel allowances predicated on his election to take leave en route in Massachusetts and to deliver his automobile instead to a port in New Jersey.

Petty Officer (AMS2) Douglas W. Smith, USN, claims additional travel allowances for delivering his automobile to a port for overseas shipment during a permanent change-of-station move he made from the United States to Panama in 1983.<sup>1/</sup> Given the particular circumstances involved, we deny the claim.

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<sup>1/</sup> This action is in response to a request from Mr. M. Jackson, the Disbursing Officer of the Navy Personnel Support Activity Detachment Panama, for an advance decision on the propriety of processing a supplemental travel voucher submitted by Petty Officer Smith for payment. The request was forwarded here by endorsement from the Per Diem, Travel and Transportation Allowance Committee after being assigned Committee Control No. 84-8.

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### Background

In December 1982 Petty Officer Smith received written orders directing him to proceed from his permanent duty station at the Naval Air Station, South Weymouth, Massachusetts, to Miramar, San Diego, California, for 10 weeks of temporary duty, and to proceed thence to the U.S. Naval Station Panama Canal on a new permanent duty assignment. The orders authorized his transportation by private automobile, and also authorized him to take up to 10 days' leave in the course of his permanent change-of-station move.

In compliance with those orders, Petty Officer Smith drove by automobile from Massachusetts to California in January 1983 to perform the temporary duty assignment at Miramar. A notation was added to his orders at Miramar directing him to report to Charleston Air Force Base, South Carolina, for transportation to Panama on a Military Airlift Command flight following the completion of his temporary duty assignment.

After finishing his assignment at Miramar, Petty Officer Smith drove his automobile from California to Boston, Massachusetts, where he took several days of leave in early April. On April 9, 1983, he departed Boston and drove to Bayonne, New Jersey. There he delivered his automobile to an authorized vehicle port facility for shipment by boat to Panama. After making that delivery he took a cab from Bayonne to an airport at Newark, New Jersey. From Newark he traveled by commercial airline to Charleston, South Carolina, where he boarded his assigned military flight to Panama.

The concerned Navy finance officials indicate that at all times pertinent to this matter, the Department of the Army had responsibility over the shipment of service members' automobiles to and from Panama, and that there were several different port facilities in the United States designated to accept those shipments, including facilities located at both Charleston, South Carolina, and Bayonne, New Jersey. The Navy officials further indicate that the Army permitted service members to elect to ship their automobiles to or from the port facility closest to their leave address in the United States, regardless of the location of their

duty stations, and notwithstanding that Charleston was the primary aerial port of embarkation and debarkation in the United States for general Military Airlift Command passenger travel to and from Panama. These circumstances allowed Petty Officer Smith to elect to deliver his automobile at Bayonne, New Jersey, for shipment to Panama. In the alternative, however, he apparently could have chosen to bypass Bayonne and deliver his automobile for shipment at Charleston instead.

#### Issues

Petty Officer Smith has been paid allowances for the costs of his permanent change-of-station move to Panama in 1983, including allowances to cover constructive travel by automobile over a direct route from Miramar, California, to Charleston, South Carolina. He has submitted the supplemental voucher here at issue claiming a mileage allowance for his travel from Boston to Bayonne and taxicab fare from there to the Newark airport on April 9, 1983, as reimbursement for additional expenses incurred in delivering his automobile to an authorized vehicle port for overseas shipment.

Alternatively, Navy finance officials note that subparagraph M11012-5a, Volume 1 of the Joint Travel Regulations, at all pertinent times provided that when a service member delivered a privately owned automobile to a designated vehicle port in the course of an overseas transfer with temporary duty en route, the member was entitled to a prescribed monetary allowance for travel over a direct route from the temporary duty station to the vehicle port facility, and from there to the passenger port of embarkation. In effect, they question whether this provision of the regulations should have been interpreted in this case to permit payment of allowances for the constructive official travel of Petty Officer Smith from Miramar, California, to Bayonne, New Jersey, and thence to Charleston, South Carolina.

#### Statutes and Regulations

A provision of the Uniformed Services Pay Act of 1981 amended 37 U.S.C. § 406(b) to grant the military and naval services broad authority for the payment of a new monetary allowance to service members making a permanent

change-of-station move, to reimburse them for the expenses of taking their automobiles to and from ports of shipment.<sup>2/</sup> Transferred civilian Federal employees had previously been authorized reimbursement of those travel expenses associated with a motor vehicle shipment, and the new allowance authorized by the 1981 legislation was designed to provide a similar entitlement for military personnel.<sup>3/</sup>

Volume 1 of the Joint Travel Regulations was subsequently amended to implement the 1981 legislation.<sup>4/</sup> At the time of Petty Officer Smith's transfer, as indicated, subparagraph M11012-5a of the regulations as so amended provided that when service members were ordered on a permanent overseas change-of-station transfer with temporary duty en route, they were eligible for allowances to cover their travel from their temporary duty station to a designated vehicle port and thence to their passenger port of embarkation.

Subsequently, in September 1983, the governing provisions of statute contained in 37 U.S.C. § 406(b) were modified by the Department of Defense Authorization Act, 1984.<sup>5/</sup> The modification specifically limited a service member's reimbursement for delivering a personally-owned automobile to a port during a permanent change-of-station move to: "a monetary allowance for transportation of that motor vehicle--

"(i) from the old duty station to--

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<sup>2/</sup> Public Law 97-60, § 121(b), approved October 14, 1981, 95 Stat. 989, 1000.

<sup>3/</sup> See S. REP. NO. 146, 97th Cong., 1st Sess. 13, reprinted in 1981 U.S. CODE CONG. & AD. NEWS 1484, 1496.

<sup>4/</sup> Change 347 dated January 1, 1982, adding paragraph M11012, 1 JTR.

<sup>5/</sup> Public Law 98-94, § 909, approved September 24, 1983, 97 Stat. 614, 638.

"(I) the customary port of embarkation which is nearest the old duty station if delivery of the motor vehicle to the port of embarkation is not made in conjunction with the member's travel to the member's port of embarkation; or

"(II) the customary port of embarkation which is nearest to the member's port of embarkation if delivery of the motor vehicle to the port of embarkation is made in conjunction with the member's travel to the member's port of embarkation;

"whichever is most cost-effective for the Government considering all operational, travel, and transportation requirements incident to such change of station; \* \* \*"

The legislative documents relating to that provision explain that the Congress wished to clarify the statutory provision authorizing the payment of allowances for driving motor vehicles to and from a port for shipment. The new provision was to make clear that this was to be reimbursement for necessary travel, not for travel which suited the personal convenience of the member. It was intended that this authority be applied in a manner which would be the most cost effective to the Government. The Congress noted that a very liberal interpretation of the new authority had resulted in the reimbursement of members for travel for their personal convenience such as for going on leave.<sup>6/</sup>

#### Analysis and Conclusion

It is fundamental that the travel allowances authorized by statute for members of the uniformed services are for reimbursement of their expenses incurred in complying with travel requirements imposed upon them by the needs of

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<sup>6/</sup> S. REP. NO. 174, 98th Cong., 1st Sess. 218, reprinted in 1983 U.S. CODE CONG. & AD. NEWS 1081, 1108. See also H.R. REP. NO. 352 (Conference), 98th Cong., 1st Sess. 225, reprinted in 1983 U.S. CODE CONG. & AD. NEWS 1160, 1162.

the services over which they have no control, and not for reimbursement of travel expenses induced by personal reasons.<sup>7/</sup> Service members may not be reimbursed for any expense incurred for travel performed solely as a matter of personal business related to the taking of ordinary leaves of absence.<sup>8/</sup> Hence, when they perform travel over a circuitous route in the course of a permanent change-of-station move, either for the purpose of going on ordinary leave or for other reasons of personal rather than official business, it has long been the rule that their reimbursement is limited to the constructive cost of officially required travel over a direct route.<sup>9/</sup>

The Uniformed Services Pay Act of 1981 for the first time recognized the travel of transferred service members to and from ports to deliver and pick up their personal automobiles as a matter of official business for which reimbursement of expenses could be allowed. There is no indication, however, that the 1981 legislation was intended to authorize travel at Government expense over circuitous routes solely to accommodate members' travel to desired leave locations, or that it was otherwise intended to alter the fundamental and commonly understood general principles mentioned which preclude reimbursement for travel performed for personal convenience to a leave site. Nevertheless, apparently an interpretation was initially placed on the 1981 legislation and implementing regulations in at least some instances which resulted in transferred members' reimbursement for personal travel over circuitous routes, if they were authorized leave en route and elected to use an available vehicle port near their leave address. This interpretation was specifically overruled by the corrective legislation adopted by the Congress in September 1983. In view of the terms of

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<sup>7/</sup> See, e.g., Dr. James L. Sutphen, 57 Comp. Gen. 201, 203 (1978); Lt. Col. Mark H. Magnussen, USA, B-191681, November 21, 1978; and Perrimond v. United States, 19 Ct. Cl. 509 (1884).

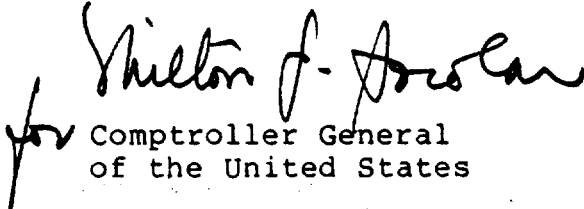
<sup>8/</sup> Dr. James L. Sutphen, 57 Comp. Gen. at 204; Colonel John R. Dopler, USMC, B-198341, April 28, 1981.

<sup>9/</sup> See para. M4159-5, 1 JTR; 54 Comp. Gen. 850, 853 (1975); 47 Comp. Gen. 440 (1968); 9 Comp. Gen. 210 (1929); 7 Comp. Gen. 840 (1928).

that remedial legislation and the accompanying declarations of Congressional intent concerning the original 1981 legislation, and the fundamental rule proscribing reimbursement for leave travel, we find that this disapproved interpretation was in contravention of the 1981 legislation as well.<sup>10/</sup>

In the present case, Petty Officer Smith was not, as a matter of official business, authorized or required to return to his old permanent duty station in Massachusetts in April 1983 following the completion of his temporary duty assignment at Miramar, California. Rather, the official requirement was that he proceed from that duty station in California to Charleston Air Force Base, South Carolina, for his further transportation to Panama. He apparently could have driven his automobile directly from California to Charleston and delivered it to the vehicle port there for shipment before boarding his military flight at the same location. He elected instead to make the trip over a circuitous route as a matter of personal convenience for the sole purpose of taking an authorized leave of absence in Massachusetts. We conclude that in those circumstances his reimbursement was properly limited to an allowance for constructive travel over a direct route from California to Charleston, and that his delivery of his automobile for shipment at Bayonne, New Jersey, may not serve as a basis for the payment of any additional allowances under the statutes and regulations then in effect.

Accordingly, we deny Petty Officer Smith's claim. The claim voucher, which may not be processed for payment, will be retained here.

  
for Comptroller General  
of the United States

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<sup>10/</sup> See 2A SUTHERLAND, STATUTES AND STATUTORY CONSTRUCTION § 49.11 (C.D. Sands 4th ed. 1973).