



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Julia R. Lovorn - Relocation Expenses

File: B-229297

Date: April 29, 1988

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### DIGEST

Defense Logistics Agency's refusal to grant a transferred employee relocation expenses was not clearly erroneous, arbitrary or capricious where the employee initiated the transfer to a lateral position with no greater promotion potential. Under these circumstances, the agency properly determined that the transfer was primarily for the convenience of the employee, thereby precluding entitlement to relocation expenses.

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### DECISION

This decision is in response to an appeal submitted by Julia R. Lovorn of our Claims Group's settlement of September 23, 1987, denying her claim for reimbursement of relocation expenses incurred when she transferred from an attorney position at a Defense Logistics Agency (DLA) field activity in Dayton, Ohio, to an attorney position at a DLA regional office in Dallas, Texas. Since Ms. Lovorn sought the transfer to Dallas and the position to which she transferred was the same grade as the position she left with no more promotion potential, DLA determined that the transfer was primarily for Ms. Lovorn's convenience. We affirm the denial of the claim since the agency's determination was not clearly erroneous, arbitrary or capricious.

### BACKGROUND

The claimant in this case, Ms. Julia R. Lovorn, held an attorney position at DLA, Dayton, Ohio. Through an informal recruitment message, she learned of a vacancy in the DLA's regional office in Dallas, Texas. The position was a GS-13 position, the same grade held by Ms. Lovorn in Dayton. The DLA report states that, following Ms. Lovorn's expression of interest, the Dallas regional office made no further effort to recruit candidates from other sources, such as issuing a formal job opportunity announcement. The Dallas office

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decided to offer the position to Ms. Lovorn based on the results of her interview and the fact that she was an experienced DLA attorney who could perform the duties of the position with little or no additional training. Ms. Lovorn was notified of her tentative selection, prompting her to request payment for permanent-change-of-station (PCS) relocation expenses.

Because of significant resource and funding limitations during fiscal year 1986, the DLA regional office in Dallas used a program resourcing advisory committee to make recommendations to the Installation Commander concerning the prioritization of filling administrative support positions, such as attorneys, and the justifiability of all requests for lateral PCS moves. The committee recommended against approval of PCS relocation expense reimbursement for Ms. Lovorn's transfer since the request was for a lateral move to a position with no known promotion potential. Instead, the committee recommended filling the position without a PCS expenditure. The Commander accepted the committee's recommendations. In a report to us the Commander states:

"The lack of available funding was a consideration in my decision not to authorize [reimbursement for] Ms. Lovorn's PCS move. However, central to my decision was my determination that filling the position was not so essential that if the position were left unfilled that accomplishment of the region's mission would be severely impaired."

When Ms. Lovorn was notified that her selection for the position had been approved but that PCS reimbursement was not justified at the time, she decided to delay her move to see if the decision not to authorize PCS reimbursement would be changed. When it appeared that no change in the decision would be forthcoming, Ms. Lovorn decided to transfer at her own expense. Once in Dallas, she submitted her claim for reimbursement of PCS relocation expenses, which was denied by DLA.

#### ANALYSIS

Reimbursement of an employee's travel and relocation expenses following a PCS move is conditioned upon a determination that the transfer is in the interest of the government and not primarily for the convenience or benefit of the employee, or at the employee's request. See Federal

Travel Regulations (FTR), para. 2-1.3 (Supp. 10, Mar. 13, 1984). We offered the following guidance concerning this determination in Dante P. Fontanella, B-184251, July 30, 1975:

"Generally . . . if an employee has taken the initiative in obtaining a transfer to a position in another location, an agency usually considers such transfer as being made for the convenience of the employee or at his request, whereas, if the agency recruits or requests an employee to transfer to a different location it will regard such transfer as being in the interest of the Government. Of course, if an agency orders the transfer and the employee has no discretion in the matter, the employee is entitled to reimbursement of moving expenses."

In applying the FTR provisions and our guidance to cases involving claims for PCS relocation expenses, we have recognized that the determination of whether a transfer is in the interest of the government or primarily for the convenience of the employee is a matter within the discretion of the employing agency. Eugene R. Platt, 59 Comp. Gen. 699 (1980); Julie-Anna T. Tom, B-206011, May 3, 1982. We will not overturn an agency's determination unless it is arbitrary, capricious or clearly erroneous under the facts of the case. John J. Hertzke, B-205958, July 13, 1982.

In this case, we conclude that the agency's decision to deny Ms. Lovorn relocation expenses was not clearly erroneous, arbitrary or capricious. As a general rule, we have denied relocation expenses where the transfers in question were lateral transfers to positions without greater promotion potential. See, e.g., Jack C. Stoller, B-144304, Sept. 19, 1979. This is the case even where the transfer is the result of a vacancy announcement. James Trenkelbach, B-219047, Apr. 24, 1986; Norman C. Girard, B-199943, Aug. 4, 1981.

In Ms. Lovorn's appeal she states that the agency cannot base a decision to deny reimbursement on budget constraints. Ms. Lovorn's statement is correct if it has been found that the transfer actually was in the interest of the government. See David C. Goodyear, 56 Comp. Gen. 709 (1977). This is not the case here. As discussed previously, DLA determined that Ms. Lovorn's transfer was primarily for her convenience based on circumstances that have been recognized in our

decisions as supporting such a determination. In view of this, we have no reason to question the Installation Commander's statement that budgetary considerations were not central to his determination.

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