



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Michiko Hata
File: B-233189
Date: March 19, 1990

DECISION

The issue in this decision is whether an employee may be reimbursed for losses incurred in selling or giving away two automobiles, payment of automobile rental expenses, and loss of post exchange and commissary privileges as part of a settlement agreement of a discrimination complaint.^{1/}

Ms. Michiko Hata, an employee of the Department of the Army, was reduced in grade from GS-12 to GS-11 and was reassigned from Germany to the continental United States, pursuant to a settlement agreement signed on October 29, 1985. On January 28, 1988, Ms. Hata executed another negotiated settlement agreement with the Army in which she was restored to the GS-12 grade level as an Equal Employment Opportunity (EEO) Officer, and was awarded, among other things, backpay, a within-grade increase, home leave, living quarters allowances, and attorney fees. It was agreed that the three items, stated earlier, would be submitted to this Office for a decision as to whether such items may be paid pursuant to the administrative settlement of the discrimination complaint. See Albert D. Parker, 64 Comp. Gen. 349 (1985); Equal Employment Opportunity Commission, 62 Comp. Gen. 239 (1983).

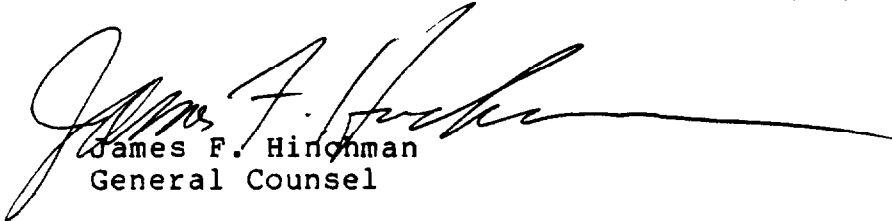
This Office has held that the Back Pay Act, 5 U.S.C. § 5596 (1982), does not authorize payment of incidental expenses, such as travel, transportation or moving expenses when they are incurred by an employee as a consequence of an unjustified or unwarranted personnel action. See Ralph C. Harbin, 61 Comp. Gen. 57, 60 (1981), in which we drew a distinction between expenses which are incidental to a wrongful action and those which would have been received by the employee but for the wrongful personnel action. Only

^{1/} This decision was requested by the United States Army Finance and Accounting Center, Department of the Army.

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the latter may be reimbursed under the terms of the Back Pay Act. In addition, we have specifically held that the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e-16) does not provide for payment of incidental expenses in the nature of those here in issue. Marie R. Streeter, B-191056, June 5, 1978. See also Richard H. Pajak, B-221641, Oct. 16, 1986; John H. Kerr, B-206931, Aug. 30, 1982.

The expenditures for which Ms. Hata seeks reimbursement are not expenses which she would have received but for her reassignment to the continental United States, but, rather, were expenses incurred as a consequence of the reassignment. Accordingly, they are not payable pursuant to the administrative settlement of her discrimination complaint.


James F. Hinchman
General Counsel