



19181
COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON D.C. 20548

PLM-2
Schneider

In reply refer to:
B-203750

August 7, 1981

The Honorable David A. Stockman,
Director Office of Management
and Budget
1700 Pennsylvania Avenue N.W.
Washington D.C. 20503

Attention: Assistant Director for
Legislative Reference

Dear Mr. Stockman:

This action is in response to your legislative referral memorandum of July 8, 1981, in which you request our views on the Department of Labor's private relief bills for the relief of Messrs. Jack C. Kean, Roy H. Redmond, Gregory B. Dymond, Samuel K. Gibbons, and James L. Nichols. This legislation would relieve these individuals from debts owed the United States representing overpayments of travel and relocation expenses arising from their transfers from the United States Postal Service to the Department of Labor. These individuals incurred relocation expenses on the basis of assurances that they would be paid by the Department of Labor. However, after payment was made, the Department determined that authority for payment of such expenses did not exist and notified those individuals that they were indebted to the United States for the amounts erroneously paid. We concur with the Department's determination of indebtedness, and in light of the fact that the debts are not subject to waiver, compromise or termination, we have no objection to the proposed private relief bills.

As the Department has noted, this Office has held that an employee who transfers from the Postal Service to an Executive agency is not eligible for reimbursement of relocation expenses. Matter of James A. Schultz, 59 Comp. Gen. 28 (1979); Matter of Postal Service Employees, 58 Comp. Gen. 132 (1978). That rule is predicated upon our construction of 5 U.S.C. 104, as amended, which excludes the Postal Service from the definition of "Executive agency." As a result, the status of employees transferring from the Postal Service to Executive agencies is analogous to that of new appointees who are not eligible for reimbursement of travel, transportation, and relocation expenses under 5 U.S.C. 5724 and 5724a.

[Proposed legislation for Relief From Indebtedness of Individuals
Transferred From Postal Service to DOL]

018141

The erroneous overpayments of relocation expenses to the named individuals are, therefore, debts which are owed to the United States. The fact that these persons were erroneously advised that they were entitled to reimbursement of relocation expenses does not estop the Government from collection of those debts. See Matter of Joseph Pradarits, 56 Comp. Gen. 131 (1976). Recovery is required unless legal authority exists for waiver of the debts under the provisions of 5 U.S.C. 5584, or for compromise or termination of collection action by the Department of Labor under the provisions of 31 U.S.C. 952(b). However, neither authority is available in these circumstances. The waiver provisions specifically exclude relocation expenses from eligibility for waiver, and termination or compromise of collection action is not authorized where there is a present or prospective ability to pay, such as continued employment. See 59 Comp. Gen., supra, at 30.

Subsequent to our decision 59 Comp. Gen. 28 supra, we recommended under the Meritorious Claims Act, 31 U.S.C. 236, that the Congress provide relief for the employee involved in that case. As a result, Private Law 96-115, was approved on December 22, 1980, granting relief to that employee. At the time of the recommendation, we did not anticipate that other similar cases would arise and limited our recommendation to the individual involved. As a result, we have no objection to the private relief legislation proposed by the Department of Labor. Additionally, we have become aware that numerous similar cases exist. If that is the case, general legislation may be more appropriate, at least in cases arising prior to the dissemination of our initial decision 58 Comp. Gen. 132 (1978), holding that the Postal Service was not an Executive agency, and thereby precluding reimbursement of relocation expenses for Postal Service employees transferring to Executive agencies.



Acting Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON D.C. 20548

In reply refer to:
B-203750

AUG 7 1981

Mr. Roy A. Redmond
9002 Westchester Drive
Manassas, Virginia 22110

Dear Mr. Redmond:

This is in response to your letter of June 24, 1981, in which you request that this Office submit to the Congress under the Meritorious Claims Act, 31 U.S.C. 236, for its consideration a recommendation to relieve you of your indebtedness to the United States. You point out that we made such recommendation in a case which was similar to yours.

Your debt to the United States arose as the result of the payment to you of travel, transportation and relocation expenses incident to your transfer from the United States Postal Service to the Department of Labor. An employee who transfers from the Postal Service to an Executive agency is not eligible for reimbursement of relocation expenses. See Matter of James G. Schultz, 59 Comp. Gen. 28 (1979); Matter of Postal Service Employees 58 Comp. Gen. 132 (1978). Furthermore, the fact that an employee acts in good faith and relies on erroneous information provided by Government agents does not estop the Government from collection of such debt. See Matter of Joseph Pradarits, 56 Comp. Gen. 131 (1976).

Thus, you are indebted to the United States for erroneous payments made to you and we are not aware of any existing authority which would relieve you from repayment.

We have, however, by letter B-203750 of today informed the Director, Office of Management and Budget that we have no objection to the proposed private relief legislation prepared by the Department of Labor. In view of this, there does not appear to be any necessity for us to consider your case under the Meritorious Claims Act.

Sincerely yours,

MILTON J. SOCOLAR

Acting Comptroller General
of the United States