

*Section
PLM-1*

DECISION



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

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FILE: B-188597

DATE: JAN 15 1979

MATTER OF: James D. Belknap - [Request for waiver of
travel, transportation, and relocation expenses]

DIGEST: Waiver of certain claims of the United States Government against a person arising out of erroneous payment of pay or allowances of civilian employees is authorized when collection action would be against equity and good conscience and not in best interest of United States. However, such authority does not extend to indebtedness resulting from payment of travel and transportation expenses, allowance and relocation expenses. 5 U. S. C. § 5584; 4 C. F. R. § 91.2(c) (1978).

This action is in response to a letter dated June 16, 1978, from Mr. James D. Belknap requesting waiver of the overpayment of relocation expenses incurred as an employee of the Department of the Navy incident to a permanent change of station.

In June 1975, Mr. Belknap was transferred from Pascagoula, Mississippi to Port Hueneme, California. In our decision, B-188597, dated June 17, 1977, and December 5, 1977, we explained that an employee may not be transferred to his former station for the purpose of being retired, notwithstanding that an ultimate return to that duty station was contemplated at the time of the original transfer by both the employing agency and the employee. In finding that the sole purpose of Mr. Belknap's transfer to Port Hueneme, California, was to effect his retirement in California, we held that no portion of his relocation expenses may be reimbursed.

In light of the fact that Mr. Belknap was authorized a travel advance in the amount of \$5,466, he now seeks a waiver of the overpayment pursuant to the authority of 5 U. S. C. § 5584. In support of this request, Mr. Belknap states that he acted in good faith, based on administrative decisions and directions regarding his relocation and retirement from the Department of the Navy. In addition, he notes that the travel allowance and other entitlements were authorized by the Navy, and that the resulting overpayments resulted from the actions of his employer.

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Waivers of certain claims of the United States against a person arising out of erroneous payment of pay or allowances of civilian employees are authorized when collection would be against equity and good conscience and not in the best interest of the United States under 5 U.S.C. § 5584 (1970). However, 5 U.S.C. § 5584 explicitly provides that such waiver authority does not extend to indebtedness resulting from payment of "travel and transportation expenses and allowance and relocation expenses payable under section 5724a of this title * * *". See 4 C.F.R. § 91.2(c) (1978). Therefore, there is no authority upon which Mr. Belknap's debt may be waived.

It is unfortunate that Mr. Belknap was erroneously advised that he would be entitled to reimbursement for his travel and relocation expenses which were not properly allowable to him under applicable laws and regulations. However, it is a well settled rule of law that the Government cannot be bound beyond the actual authority conferred upon its agents by statute or by regulations. See Matter of M. Reza Fassihi, 54 Comp. Gen. 747 (1975) and cases cited therein. The Government is not estopped from repudiating advice given by one of its officials if that advice is erroneous, and any payments made on the basis of such erroneous advice or authorization are recoverable. Matter of Joseph Pradarits, 56 Comp. Gen. 131 (1976); W. Penn. Horological Inst., Inc. v. United States, 146 Ct. Cl. 540 (1959).

Accordingly, Mr. Belknap's request for waiver is denied and all monies advanced to him incident to his relocation should be recovered.

~~Deputy~~

R.F. KELLER

Comptroller General
of the United States