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DECISION



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

FILE: B-191586

DATE: February 25, 1981

MATTER OF:

Arthur D. Porcella - Constructive costs
of travel

[Claim for]

DIGEST:

Employee authorized to use common carrier for temporary duty travel to El Paso elected to travel by automobile. Paragraph 1-3.4b(1) of the Federal Travel Regulations (FTR) (FPMR 101-7) (May 1973) states that special fares should be used for official travel when it can be determined in advance that such service is practical and economical. Since agency had advised all employees to use economy fare rates for air travel to El Paso agency properly restricted constructive cost reimbursement for travel under FTR para. 1-4.3a(1) to the cost of accommodations at economy fare rates rather than higher rate for coach accommodations.

This matter concerns the request for an advance decision by the Assistant Attorney General for Administration, Department of Justice, as to whether Mr. Arthur D. Porcella, an Assistant United States Attorney, may be allowed additional reimbursement in the amount of \$34 for temporary duty travel on February 12 and 13, 1979. The amount in question represents the difference that results from computing the constructive cost of air travel based upon standard coach fare as compared with the lower cost of economy fare accommodations.

The record shows that Mr. Porcella was authorized round-trip travel via common carrier from his official duty station in San Antonio, Texas, to El Paso, Texas. However, for reasons of personal preference, Mr. Porcella traveled by privately owned vehicle. He claims reimbursement for mileage limited to the amount of \$144 which represents the constructive cost of commercial air travel at the regular rate for coach class accommodations. Because employees of the U.S. Attorney's Office were advised by memorandum that air travel between San Antonio and El Paso was to be performed using economy fair accommodations, the agency has allowed payment in the amount of \$110 which represents the constructive cost of air travel at the economy fare rate.

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The employee contends that this restriction of his reimbursement for travel expenses is improper under agency regulations which prescribe the manner in which constructive costs are to be determined and because he believes that accommodations at the economy fare rates would not have been available to him had he traveled by commercial air carrier.

The provisions concerning reimbursement for the use of privately owned conveyance in lieu of common carrier transportation are set forth at para. 1-4.3 of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) which provide in pertinent part as follows:

"1-4.3. When use of privately owned conveyance is in lieu of common carrier transportation. Whenever a privately owned conveyance is used for official purposes as a matter of personal preference in lieu of common carrier transportation under 1-2.2d, payment for such travel shall be made on the basis of the actual travel performed, computed under 1-4.1 at the mileage rate prescribed in 1-4.2a plus the per diem allowable for the actual travel. The total allowable shall be limited to the total constructive cost of appropriate common carrier transportation including constructive per diem by that method of transportation. Constructive cost of transportation and per diem by common carrier shall be determined under the following rules:

"a. Mode of travel to be used for comparison.

"(1) Airplane. The mileage payment shall not exceed the constructive cost of coach accommodations (or tourist or economy accommodations if a carrier uses this term instead of 'coach accommodations') on airplanes when such service is provided by a carrier. If it is not provided, the comparison will be made with standard class

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accommodations if provided; otherwise, with first-class accommodations. When accommodations are provided on both jet and propeller-driven planes the comparison shall be made with the jet planes. (For the purpose of this provision, a class of service is considered to be provided by a carrier when it is scheduled on flights serving origin and destination points, regardless of whether space would have been available had the traveler used air transportation for the official travel.)"

This provision is substantially identical to the agency regulation relied on by Mr. Porcella.

It is Mr. Porcella's contention that the above regulation requires the constructive cost of air travel to be computed on the basis of coach accommodations since the airline providing service between the points of travel did not offer economy accommodations "instead of" coach accommodations, but offered both. In the particular circumstances, we cannot agree. The above regulation provides that the total allowable reimbursement will be limited to the total constructive cost of appropriate common carrier transportation. The term "appropriate common carrier transportation" refers not only to the mode of transportation but to the class of service where the agency, by instruction or in the travel orders, has prescribed a specific class of accommodations. See B-166552, June 27, 1969, and 39 Comp. Gen. 676 (1960).

In this case, the memorandum requiring use of economy accommodations for travel to and from El Paso is in accordance with the following provision of FTR para. 1-3.4b regarding use of special fares:

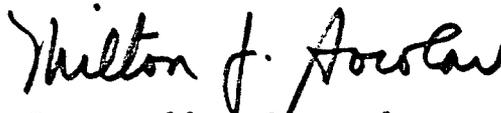
"(1) Use of special lower fares.
Through fares, special fares, commutation fares, excursion, and reduced-rate round-trip fares shall be used for official travel when it can be determined prior to the start of a trip that any such type of service is practical and economical to the

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Government. Round-trip tickets shall be secured only when, on the basis of the journey as planned, it is known or can be reasonably anticipated that such tickets will be used."

Thus, under the above provision, where practical and economical, special discount fares are to be used for official travel. By memorandum dated February 9, 1979, the employees of the U.S. Attorney's Office in which Mr. Porcella was employed were advised to perform commercial air travel to and from El Paso using economy rather than regular coach accommodations. Under the circumstances, we find that the agency properly restricted reimbursement for mileage to the constructive cost of accommodations at the economy fare rate. With regard to Mr. Porcella's argument that only a limited number of economy fare seats were available, we refer to the last sentence of FTR para. 1-4.3a(1) quoted above.

Accordingly, Mr. Porcella's claim is disallowed.



For the Comptroller General
of the United States