

13315 PLMEE



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

In reply refer to:
B-192347

APR 02 1980

The Honorable Pete V. Domenici
United States Senator
500 Gold Avenue, S.W.
Suite 10013
Albuquerque, New Mexico 87101

Dear Senator Domenici:

We refer further to your correspondence dated August 24, 1979, with enclosures, on behalf of Mr. Allen W. Smith, concerning our decision Henry G. Hastings, B-192347, May 29, 1979. In that decision we held that Mr. Hastings, an employee of the Department of Agriculture, United States Forest Service, was not entitled to additional reimbursement for first-class air travel incident to his return from temporary duty. Upon further consideration of this matter, we find no basis to warrant changing that conclusion. 34

Mr. Hastings, whose permanent duty station was Albuquerque, New Mexico, traveled by Forest Service aircraft on May 1, 1978, between various worksites in Arizona. He had expected to complete his temporary duty assignment by 3:30 p.m. on that date, return to Phoenix, and fly to Albuquerque on Trans World Airlines (TWA) Flight 150, scheduled for departure at 7:25 p.m. However, a rain storm prevented him from visiting the worksite at Payson, Arizona, as scheduled. He therefore canceled his coach reservations for TWA Flight 150 so that he could visit Payson the following day. Upon completion of his duties at Payson on May 2, he departed for the Phoenix airport where he arrived at 2 p.m. Upon his arrival in Phoenix, he attempted to obtain coach reservations to Albuquerque on one of the two commercial flights available that day, a Frontier Airlines flight and TWA Flight 150. He was unsuccessful in these efforts and he returned to Albuquerque on TWA Flight 150, in first-class accommodations. He states that he returned to Albuquerque on May 2, as his supervisor desired that he attend a training session there the following day.

009532

B-192347

Section 5731 of title 5, United States Code, provides that an employee's transportation expenses may not exceed the lowest first-class rate unless under regulations prescribed by the President it is certified that lowest first-class accommodations are not available or other accommodations are required for security purposes.

Concerning first-class air accommodations the regulation implementing 5 U.S.C. § 5731 is paragraph 1-3.3d of the Federal Travel Regulations (FPMR 101-7) (May 1973) as amended by FPMR Temporary Regulation A-11, Supp. 5, March 8, 1978. Paragraph 1-3.3d provides in pertinent part that it is Government policy that employees who use commercial air carriers for travel on official business shall use less-than-first-class air accommodations. Furthermore, the authority for authorizing and approving the use of first-class air accommodations is limited to the agency head or his deputy who may authorize the use of first-class air accommodations under the limited circumstances set forth in para. 1-3.3d(3)(b) of the FTR which permits such approval when:

"(i) Space is not available in less-than first-class accommodations on any scheduled flights in time to accomplish the purpose of the official travel, which is so urgent that it cannot be postponed;

* * * * *

"(iii) First-class accommodations are required for security purposes or because exceptional circumstances, as determined by the agency head, or his deputy, make their use essential to the successful performance of an agency mission* * *"

In view of the above regulations the agency deducted the difference between first-class and coach fare in the amount of \$26 from Mr. Hasting's reimbursable travel expenses. In our decision of May 29, 1979, we held that we had no basis upon which to hold that the agency's disallowance of his claim was improper.

B-192347

We must emphasize the substantial degree of discretion given agencies in authorizing first-class air travel and the fact that first class air travel is to be authorized only in the most unusual circumstances. We reviewed the facts of this case and the reasons given by the Department of Agriculture for not authorizing reimbursement of first-class travel in this case. We did not find that the determination was so lacking in factual or rational support as to be arbitrary or improper.

In order to insure that the Department of Agriculture has fully considered all of Mr. Hastings' arguments in support of reimbursement, we requested that it reconsider Mr. Hastings' claim in the light of his letter of June 15, 1979, wherein he addressed the agency's reasons for disallowing his claim. In its report dated February 5, 1980, the Department of Agriculture advised, in part, that Mr. Hastings' letter of June 15, 1979, reiterated his earlier reasons for justifying his use of first-class air travel and that accordingly, it still believes that the reasons and circumstances surrounding his travel do not permit an approval of his first-class travel.

In view of our holding that the administrative determination was not arbitrary, we cannot alter the decision made by the Department as required by the controlling regulations. Accordingly, we are unable to allow Mr. Hastings' claim for additional air fare.

We regret that we are unable to give a favorable reply in this matter. We are enclosing the correspondence which you forwarded with your letter of August 24, 1979.

A copy of this letter is being furnished Mr. Hastings in view of the personal appeal he made following issuance of the decision of May 29, 1979.

Sincerely yours,

~~William R. ...~~
Per the Comptroller General
of the United States

Enclosure