



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

09/1583

3/304

B-178847

AUG 28 1973

Mr. John W. Barker
c/o Culinary Institute, Group f3-1
Hyde Park, New York 12538

Dear Mr. Barker:

Further reference is made to your letter of April 14, 1973, which was forwarded by letter of the Honorable Hamilton Fish, Jr., House of Representatives, in which you in effect request reconsideration of the settlement dated March 20, 1973, which disallowed your claim for additional travel allowance incident to your release from active duty in the United States Navy on July 9, 1971.

In its settlement dated March 20, 1973, our Transportation and Claims Division disallowed your claim for mileage allowance from Gaeta, Italy, to Bremen, Germany, and for reimbursement for transoceanic travel from Bremen to New York, New York, incident to your release from active duty.

The record shows that by authority of undated orders of the commanding officer of the U.S.S. Springfield which was homeported in Gaeta, Italy, you were released from active duty at that location and transferred to the Naval Reserve on July 9, 1971. Your final pay voucher shows that you received mileage allowance from Gaeta, Italy, to Rome, Italy, and from Charleston, South Carolina, to Alameda, California, your home of record, in the sum of \$180.84. The record further shows that upon your release from active duty you traveled to Bremen, Germany, at your own expense and in August 1971 you flew from Bremen, Germany, to New York, New York, on the Lufthansa, a foreign flag airline. According to the Bureau of Naval Personnel, the authorized routing from Gaeta, Italy, to the appropriate port of embarkation in the continental United States is commercial train, tourist class, Gaeta to Rome, thence Government procured commercial air (category 2) to New York, New York, at a total cost of \$151.60. Government aircraft was not available.

In requesting reconsideration of your claim you indicate that in your original claim you had requested only those monies spent for your return trip from Bremen, Germany, to New York. Secondly, you state that when you were discharged to facilitate your return trip

BEST DOCUMENT AVAILABLE

719312

you were instructed to turn in your orders into an American embassy or military installation. By that time you had purchased a 1971 Super Beetle and had a traveling companion. You say that personnel at the American embassy in Bremen, Germany, were unable to assist you and sent you to Bremerhaven, Germany. In Bremerhaven you were directed to an army base in which there was a naval outpost. There you were given one of two choices. You could take military transportation or you could purchase your own ticket and be reimbursed upon your return. You chose the latter alternative. Your decision was based upon the fact that the military was unable to give you transportation from Bremerhaven to Hamburg, the departure point for military trips to the United States. You further say that as no specific flight was assigned, you would have had to wait for a flight and had no funds for either food or lodging. In addition you say that you had a traveling companion and that you had to consider the shipment of your car back to the United States at a time during which a longshoremen's strike on the east coast of the United States was anticipated. You also say that in your original orders no specific statement was made restricting you from taking a foreign carrier, and that no specific statement was made requiring you to travel to Rome in order to return to the United States.

Section 404(a) of title 37, U.S. Code provides that, under regulations prescribed by the Secretaries concerned, a member of a uniformed service is entitled to travel and transportation allowances for travel performed or to be performed under orders upon separation from service or release from active duty from his last duty station to his home or the place from which he was ordered to active duty whether or not he is a member of a uniformed service at the time the travel is performed.

In accord with 37 U.S.C. 404(a), paragraph M4157-1b of the Joint Travel Regulations provides that a member who is separated from the service or released from active duty outside the United States will be entitled to travel allowances as provided in paragraph M4159.

Paragraph M4159-1 of the Joint Travel Regulations provides that a member traveling under permanent change of station orders (including separation from the service or relief from active duty) to, from or between points outside the United States which orders did not specify group travel or direct travel by a specific mode of transportation will be entitled to:

- "1. the allowances prescribed in par. M4150 or M4154, as applicable, for the official distance between the old permanent station and the appropriate aerial or water port of embarkation serving the old duty station;

- '2. transportation by Government aircraft or vessel, if available, otherwise Government procured transportation or reimbursement for transportation procured at personal expense for the transoceanic travel involved (see subpar. 4). * * * and
- '3. the allowances prescribed in paragraph H4150 or H4154, as applicable, for the official distance between the appropriate aerial or water port of debarkation serving the new station and the new permanent station."

Paragraph H4159-4 of the regulations, in effect during the period of your travel, provides that when travel by Government transportation is authorized (as distinguished from directed) and the member performs transoceanic travel by another mode of transportation (other than foreign-flag) at personal expense, the member is entitled to reimbursement for the cost of the transportation utilized not to exceed the applicable tariff charge which the sponsoring service would have been required to pay for the available Government transportation.

Subparagraph H4159-4c of the regulations entitled "Travel By Vessels or Aircraft of Foreign Registry," states as follows:

"Reimbursement may not be authorized for travel at personal expense on vessels or aircraft of foreign registry except when the use of carriers of United States registry is impractical or carriers of United States registry are not available (see paragraph H2150)."

In this connection paragraph H2150 of the Joint Travel Regulations provides that subject to certain exceptions, vessels or aircraft registered under the laws of the United States will be used. The only exceptions permitted are in cases where the order-issuing authority determines that the use of vessels or aircraft registered under the laws of the United States would seriously interfere with or prevent the performance of official business or where the transportation or other officer determines that vessels or aircraft registered under the laws of the United States are not available. In these limited situations the use of vessels or aircraft of foreign registry may be authorized. That paragraph requires, however, that a statement of facts and of such determination must be annotated on the transportation request or other transportation procurement document or appended to the member's voucher for reimbursement.

The paragraph further states that determinations of impracticability or nonavailability:

"May not be based upon mere inconvenience in securing transportation in vessels or aircraft of United States registry, short delays in awaiting such transportation, the desire to arrange circuitous routes for the convenience of a traveler or any similar reasons."

It has long been the established rule that travel of members of the uniformed services and their dependents, for reimbursement purposes, is required to be computed on the basis of the most direct, usually traveled route between the points involved and additional expenses may not be authorized for circuitous travel. See 47 Comp. Gen. 449 (1966), copy enclosed.

Where transportation by American carrier is available on the direct, usually traveled transoceanic route, but a foreign carrier is utilized for circuitous travel, we have denied any reimbursement for transoceanic travel. Decisions E-166195, April 8, 1969, and E-172918, August 12, 1971, copies enclosed.

Since, in your case, transportation by American carrier was available from Rome to New York, New York, the port of debarkation in the United States, by prescribed direct route as reported by the Department of the Navy, and in view of the limitations contained in paragraphs 42150 and 44150 of the Joint Travel Regulations, reimbursement for travel performed by you on a foreign registered airline from Bremen, Germany, to New York, New York, is not authorized. While it is regrettable that you may not have been informed regarding the prohibition on use of foreign carriers where American registered carriers are available on the direct route from your duty station to the United States, such circumstance provides no basis for reimbursement for your overseas transportation via foreign commercial air.

The record shows, however, that on July 9, 1971, you received mileage allowance from Gaeta, Italy, to Rome, Italy, and from Charleston, South Carolina, to Alameda, California, your home of record. As the direct authorized route was from Gaeta, Italy, to Rome by commercial train, tourist class, thence by Government procured commercial air to New York City and from there to Alameda, California, it appears that you are entitled to an additional sura for mileage computed upon the distance from New York to Alameda, California, less the amount paid from Charleston, South Carolina, to Alameda. Payment of the additional amount due, if otherwise proper, will be authorized in due course.

B-178847

The return portion of your ticket from Germany to United States is enclosed herewith, as requested.

Sincerely yours,

Paul G. Donbling
for the Comptroller General
of the United States

BEST DOCUMENT AVAILABLE