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United States General Accounting Office
Washington, DC 20548

Office of
General Counsel

In Reply
Refer to: B-194534

10, 158

Ms. Juanita R. Cantu
701 East Tarrant
Pharr, Texas 78577

Do not make available to public 9979

Dear Ms. Cantu:

Reference is made to your letter of March 28, 1979, with enclosures, requesting information and a ruling by our Office concerning the ~~recrediting of~~ sick leave incident to ~~your~~ employment with the U.S. Customs Service after a break in service of over 3 years.

You state that your employment with the U.S. Customs Service was terminated on May 24, 1975, and that you were reinstated with the same agency on September 24, 1978. You state that your reemployment was pursuant to a stipulation for settlement incident to an order of dismissal of your action against the Customs Service (U.S. District Court, Southern District of Texas, Brownsville Division, Civil Action No. 76-B-6, dismissed September 5, 1978). However, nothing therein referred to the recrediting of sick leave in your case, and you have been advised by your agency that sick leave may not be recredited to you after a break in service of more than 3 years. You request our ruling in the matter.

A decision by the Comptroller General is not being issued at your request. We offer, however, the following information regarding your sick leave.

With reference to the recrediting of sick leave, the pertinent Office of Personnel Management regulation is contained in 5 C.F.R. 630.502(b)(1) (1978), and provides, in pertinent part, as follows:

"* * * an employee who is separated from the Federal Government or the government of the District of Columbia is entitled to a recredit of his sick leave if he is reemployed in the Federal Government or the government of the District of Columbia, without a break in service of more than 3 years."



Letter
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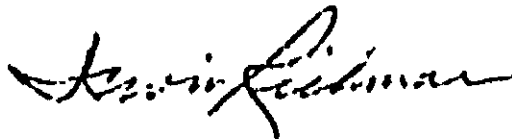
B-194534

This regulation was issued pursuant to 5 U.S.C. 6311 (1975). Neither our Office nor any agency in the executive branch of the Government has the authority to waive or grant exceptions to that regulation; Matter of Alice M. Thornton, B-188913, October 17, 1977, copy enclosed.

With reference to your statement that you have not received any monetary settlement incident to the settlement of your case, our records show the issuance of a settlement certificate, dated January 9, 1979, copy enclosed, by our Claims Division, certifying the sum of \$11,977.94 as due on account of the action dated August 14, 1978, in your suit. That amount includes court costs and attorney fees in the amount of \$1,977.94, and was issued in the name of Juanita Cantu, c/o Mr. J. A. Canales, United States Attorney, Houston, Texas 77002. If you have not received any payment by now, we suggest you follow up the matter with Mr. Canales.

We trust we have been of aid to you in this matter.

Sincerely yours,



Irwin Richman
Attorney-Adviser

Enclosures - 2