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DECISION



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

FILE: B-199464

DATE: August 29, 1980

MATTER OF: Lieutenant Colonel J. H. Champion, USMC

DIGEST: A service member and others performed temporary duty travel under competent orders which contained the designation "group travel" instead of individual travel, which would permit greater reimbursement for per diem. Based on an assertion of error, those orders were modified by amendatory orders issued after the ordered travel was performed. The general rule is that travel orders may not be revoked or modified retroactively to increase or decrease accrued rights, in absence of a showing of error apparent on face of orders or a showing that something intended to be included was omitted. Since orders were complete as issued and nothing contained therein shows that group travel was not intended, reimbursement for additional amount on orders modification is not authorized.

This action is in response to a letter dated June 19, 1980, from Lieutenant Colonel J. H. Champion, USMC, requesting further consideration of his claim for additional per diem incident to temporary additional duty performed in Korea in December 1978.

The matter of this claim was the subject of settlement by our Claims Division dated September 27, 1979, which disallowed it because the amendment to the orders which would have permitted increased per diem were issued retroactively after the travel in question had been performed.

Colonel Champion contends that the orders as originally issued were in error, in that those orders provided for group travel when they were supposed to show individual travel. Further, he indicates that the error was introduced by an inexperienced enlisted travel clerk and it was not detected by the authenticating officer, disbursing office or any of those affected until after the travel was performed.

Travel Order No. 36-79, dated November 27, 1978, directed Lieutenant Colonel Champion (then major) and others, to perform

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B-199464

Temporary Additional Duty (TAD) travel from their duty station in Okinawa, to Seoul, Korea, with a proceed date of December 4, 1978, and return on December 8, 1978. The stated purpose for travel was "Exercise Team Spirit 79 Liaison." Item 8 of those orders designated the travel as group travel.

By modification of those TAD orders, dated February 23, 1979, item 8 was changed to show individual travel, rather than group travel.

When traveling on official business, a member is entitled to be transported at Government expense and to be furnished subsistence in kind or to be reimbursed for expenses attendant to such travel. Entitlements are specifically governed by law and regulations. Paragraph M3000 of Volume 1, Joint Travel Regulations, provides that a member may not be reimbursed for travel expenses unless the travel is in compliance with orders issued by competent authority.

In this connection, it is a longstanding rule that legal rights and liabilities with regard to travel allowances vest when travel is performed under orders issued by competent authority. As a result, such orders may not be revoked or modified retroactively so as to increase or decrease the rights which have become fixed under law and regulations when travel has already been performed. An exception to this rule has been recognized in cases involving errors which are apparent on the face of the original orders, or where all the facts and circumstances surrounding the issuance of the original orders clearly demonstrate that some provision which was previously determined and definitely intended had been inadvertently omitted in their preparation. See 23 Comp. Gen. 713 (1944); 24 Comp. Gen. 439 (1944); 37 Comp. Gen. 627 (1958); 44 Comp. Gen. 405 (1965); 48 Comp. Gen. 119 (1968); 51 Comp. Gen. 736 (1972); and 55 Comp. Gen. 1241 (1976).

In the present situation, while error is alleged in that item 8 of the orders was improperly marked, there is nothing contained elsewhere in those orders which would support that claim. The orders as originally issued were for TAD travel in connection with a liaison activity with Exercise Team Spirit 79 and specifically named Colonel Champion and two others who were to travel under the orders as issued. Therefore, it is our view that there was no apparent error evidenced in the orders and no basis exists

B-199464

for recognizing the February 1979 modification as constituting a proper amendment to those orders.

Accordingly, the action taken by our Claims Division is sustained.

Harry R. Van Cleave
For the Comptroller General
of the United States