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B-164372, Jun. 12, 1968

Number: B-164372

Date: 1968-06-12

B-164372, JUN. 12, 1968

TO DR. BERNARD L. STREHLER:

WE REFER TO YOUR LETTER OF MAY 7, 1968, REQUESTING REVIEW OF THE OFFICE CLAIMS SETTLEMENT ACTION DATED FEBRUARY 27, 1968, BY WHICH YOUR CLAIM FOR REIMBURSEMENT OF CERTAIN EXPENSES YOU INCURRED IN JULY AND AUGUST 1967, JUST PRIOR TO YOUR RESIGNATION AS AN EMPLOYEE OF THE NATIONAL INSTITUTES OF HEALTH, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, WAS DENIED.

YOU SAY THAT YOU HAD PLANNED FOR SOME TIME TO ATTEND THE INTERNATIONAL BIOCHEMICAL CONGRESS TO BE HELD IN TOKYO, JAPAN, IN AUGUST 1967 IN YOUR OFFICIAL CAPACITY AS AN EMPLOYEE OF THE GOVERNMENT, BUT THAT YOUR REQUEST FOR A TRAVEL AUTHORIZATION WAS REJECTED SHORTLY BEFORE YOU WERE TO BEGIN TRAVEL TO THAT CONGRESS. YOU INDICATE THE EXPENSES FOR WHICH YOU SEEK REIMBURSEMENT WERE INCURRED BECAUSE YOU DELAYED YOUR RESIGNATION FROM GOVERNMENT EMPLOYMENT IN THE BALTIMORE, MARYLAND, AREA AS WELL AS THE ACCEPTANCE OF EMPLOYMENT WITH THE UNIVERSITY OF SOUTHERN CALIFORNIA IN LOS ANGELES SO THAT YOU COULD PARTICIPATE IN THE BIOCHEMICAL CONGRESS PRIOR TO SUCH RESIGNATION. YOU INDICATE, FURTHER, THAT YOU WOULD HAVE RESIGNED AND ACCEPTED THE UNIVERSITY POSITION PRIOR TO JULY 3, 1967, WHEN YOU BEGAN A PERIOD OF SERVICE AT THE UNIVERSITY AS A VISITING LECTURER HAD IT NOT BEEN FOR THE PROPOSED TRIP TO JAPAN.

THE ITEMS OF COST FOR WHICH YOU CLAIM REIMBURSEMENT ARE THE ONEWAY TRAVEL OF YOUR FAMILY BETWEEN LOS ANGELES AND BALTIMORE, YOUR ROUND TRIP TRAVEL BETWEEN THOSE PLACES, SALARY DIFFERENTIAL -- APPARENTLY THE DIFFERENCE BETWEEN YOUR SALARY AS A GOVERNMENT EMPLOYEE AND YOUR SALARY AS AN EMPLOYEE OF THE UNIVERSITY -- THE FEE YOU PAID FOR REGISTRATION TO ATTEND THE CONGRESS, EXCESS HOUSING COSTS INVOLVED IN MAINTAINING A HOUSE IN BALTIMORE AND AN APARTMENT IN THE LOS ANGELES AREA IN JULY 1967, AND THE COST OF TRANSPORTING YOUR AUTOMOBILE FROM BALTIMORE TO LOS ANGELES.

ANY REIMBURSEMENT BY THE GOVERNMENT OF TRAVEL AND TRANSPORTATION COSTS INCURRED BY AN EMPLOYEE MUST BE AUTHORIZED BY LAW. WE ARE AWARE OF NO LAW WHICH PERMITS REIMBURSEMENT OF TRAVEL AND TRANSPORTATION COSTS INCURRED BY A CIVILIAN EMPLOYEE INCIDENT TO HIS RESIGNATION FROM A POSITION WITHIN THE CONTINENTAL UNITED STATES AND ACCEPTANCE OF PRIVATE EMPLOYMENT. FURTHERMORE, THE FACT THAT YOUR ANTICIPATED TRAVEL AT GOVERNMENT EXPENSE TO JAPAN FOR TEMPORARY DUTY WAS NOT FINALLY APPROVED PROVIDES NO BASIS UPON WHICH THE TRAVEL AND TRANSPORTATION COSTS CLAIMED MAY BE ALLOWED. THEREFORE, YOUR CLAIM FOR REIMBURSEMENT OF THE TRAVEL COST OF YOURSELF AND YOUR FAMILY, THE COST OF TEMPORARY LODGING IN THE LOS ANGELES AREA, AND THE COST OF TRANSPORTING YOUR AUTOMOBILE MAY NOT BE ALLOWED.

SIMILARLY, WE FIND NO AUTHORITY IN LAW WHICH WOULD PERMIT PAYMENT OF YOUR CLAIM FOR SALARY DIFFERENTIAL.

REGARDING YOUR CLAIM FOR REIMBURSEMENT OF THE FEE YOU PAID FOR REGISTRATION AT THE BIOCHEMICAL CONGRESS, 5 U.S.C. 4110 PROVIDES:

"APPROPRIATIONS AVAILABLE TO AN AGENCY FOR TRAVEL EXPENSES ARE AVAILABLE FOR EXPENSES OF ATTENDANCE AT MEETINGS WHICH ARE CONCERNED WITH THE FUNCTIONS OR ACTIVITIES FOR WHICH THE APPROPRIATION IS MADE OR WHICH WILL CONTRIBUTE TO IMPROVED CONDUCT, SUPERVISION, OR MANAGEMENT OF THE FUNCTIONS OR ACTIVITIES.'

ALTHOUGH THE REGISTRATION FEE YOU PAID WOULD BE PROPERLY REIMBURSABLE UNDER THAT SECTION HAD YOU ATTENDED THE CONGRESS IN AN OFFICIAL CAPACITY, WE FIND NO AUTHORITY FOR REIMBURSEMENT OF THAT FEE IN THE CIRCUMSTANCES PRESENTED ESPECIALLY SINCE THE FINAL DETERMINATION THAT YOU WERE NOT AUTHORIZED TO ATTEND THE CONGRESS AT GOVERNMENT EXPENSE RESULTED, AT LEAST IN PART, FROM THE FACT THAT YOU DID NOT INTEND TO REMAIN IN GOVERNMENT SERVICE AFTER SEPTEMBER 1967.

FOR THE REASONS STATED, THE SETTLEMENT OF FEBRUARY 27, 1968, DISALLOWING YOUR CLAIM IS SUSTAINED.