



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

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PLM II

IN REPLY  
REFER TO:

B-200115

October 15, 1980

The Honorable Herbert E. Harris II  
House of Representatives

Dear Mr. Harris:

Further reference is made to your letter dated June 26, 1980, with enclosures, requesting a report on matters mentioned in correspondence to you from Mrs. Virginia M. Dolan, 4631 Strathblane Place, Alexandria, Virginia 22304. The question involves Mrs. Dolan's [entitlement to ~~receive an increase in the~~ Civil Service survivor annuity] she receives as the widow of the late Petty Officer James C. Dolan, USN, Retired, who died July 18, 1977.

It appears that the problem in Mrs. Dolan's case involves the question as to whether her husband's military service time may be included in the computation of her Civil Service survivor annuity since it has been determined that Mr. Dolan died while still on the payroll as a civilian employee of the Government and still in receipt of military retired pay.

Apparently Mr. Dolan did not elect to have his retired pay reduced to provide a survivor annuity for Mrs. Dolan predicated on his Navy retired pay. However, he intended to combine naval and Civil Service for retirement annuity purposes at the time he retired from civilian service. This he could do by waiving receipt of his navy retired pay at the time he retired from Civil Service. When an individual chooses this course of action and elects a survivor annuity under Civil Service retirement, there is entitlement to a full survivor annuity predicated on the combined services.

Since Mr. Dolan died before he retired from the Civil Service, his intention in that regard could not be implemented. Mrs. Dolan indicates that she has received informal advice from this Office regarding a method for obtaining a survivor annuity predicated

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on the combined service. We are aware of a few similar cases where actions were taken to provide for payment of a survivor annuity based upon the combined service. However, these actions cannot be taken by us but depend upon what the Secretary of the Navy and the Office of Personnel Management will do. The Secretary of the Navy acting through the Board for Correction of Naval Records (10 U.S.C. 1552) could change the record to show that Mr. Dolan waived his naval retired pay prior to his death. That record then could be accepted by the Office of Personnel Management as an appropriate basis for paying the increased survivor annuity.

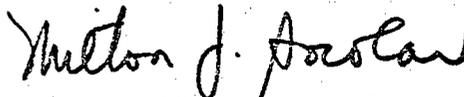
We realize that this procedure will require further actions by Mrs. Dolan, but the payment of Civil Service survivor annuities is a matter within the exclusive jurisdiction of the Office of Personnel Management. We are not authorized to settle claims for Civil Service annuities or survivor benefits. Although the Office of Personnel Management has denied Mrs. Dolan's request for an annuity based upon combined service, a correction of naval or military records has been accepted by them in the past as a basis for a redetermination.

Mrs. Dolan should present her request for a correction of naval records under the rules prescribed in Part 723 of title 32, Code of Federal Regulations to:

Board for Correction of Naval Records  
Department of the Navy  
Washington, D.C. 20370

We hope that the information provided will be of assistance to Mrs. Dolan.

Sincerely yours,



For the Comptroller General  
of the United States