



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Senior Chief Petty Officer John J. Chiumento,
USN (Retired)

File: B-244598

Date: October 2, 1991

DECISION

This is in response to an appeal from a Claims Group determination which denied the claim of Senior Chief Petty Officer John J. Chiumento for an increased Cost of Living Allowance (COLA) for his tour in Japan. We affirm the Claims Group's denial.

Senior Chief Petty Officer Chiumento was stationed in Japan from October 5, 1986, to September 1, 1988. As a member without dependents for pay and allowance purposes, he lived in bachelor enlisted quarters at a shore station. Because he was authorized to draw separate rations, he received 47 percent of the COLA for a member without dependents.

On September 13, 1988, Military Travel Advisory (MTA) 14-88 was issued which authorized payment of 100 percent of the COLA for members in the above situation retroactive to the date when separate rations were authorized. MTA 17-88, October 14, 1988, specified that only members drawing separate rations on September 13, 1988, were entitled to the retroactive increase in the COLA.

Senior Chief Petty Officer Chiumento did not receive the increased COLA because his transfer to the United States was effective September 1, 1988. He believes that the Navy erred in reassigning him on September 1 rather than October 1. He requested waiver of the regulation's date restriction, but waiver was denied. The Board for Correction of Naval Records denied his request to amend his record. Our Claims Group denied his claim for increased retroactive COLA, and he has appealed their determination.

The Secretary of the Navy, acting through the Board for Correction of Naval Records, has the authority under 10 U.S.C. § 1552 to correct a member's record to correct an error or remove an injustice. In the absence of fraud, such an action is final and conclusive on all officers of the United States.

Matters such as the timing of duty assignment of members are personnel matters in which the military departments have broad discretion. See Jamison v. Stetson, 471 F. Supp. 48, 52 (N.D. N.Y. 1978). We will therefore not question the date of Chimento's reassignment.

Furthermore, since the Board for Correction of Naval Records refused to amend his record, and since we have no evidence that the Board acted in an arbitrary or capricious manner, we are bound by the Board's decision and have no jurisdiction to overturn it. See Lieutenant Commander George K. Huff, 55 Comp. Gen. 961 (1976).

Accordingly, Senior Chief Petty Officer Chimento's claim is denied.

for Seymour G. Hoo
James F. Hinchman
General Counsel