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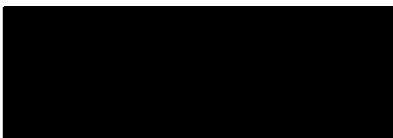
COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

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B-156519

MAY 5 1965



Dear Mr. [REDACTED]

Further reference is made to your letter dated March 26, 1965, requesting review of settlement of our Claims Division dated October 30, 1951, which disallowed your claim for mustering-out pay incident to your discharge from the United States Navy on June 11, 1943.

You say you served continuously in the Regular Navy from May 6, 1926, until December 20, 1946. The records of the Bureau of Naval Personnel show that you were discharged from the naval service on June 11, 1943, and reenlisted in the Navy on June 12, 1943. It is also disclosed that you were transferred to the Fleet Reserve April 15, 1946, and released to inactive duty on December 20, 1946, with retainer pay. Your claim for mustering-out pay was disallowed for the reason that personnel transferred or retired to the retired or inactive list with retired or retainer pay are not entitled to mustering-out payment. The settlement inadvertently stated that you were discharged from the United States Naval Reserve on June 11, 1943, but such error has no bearing on the issue involved.

You agree that when you were released to inactive duty in the Fleet Reserve on December 20, 1946, you were not entitled to mustering-out pay but you base your claim on your discharge on June 11, 1943, and reenlistment on June 12, 1943.

Section 1 of the Mustering-Out Payment Act of 1944, approved February 3, 1944, ch. 9, 58 Stat. 8, authorized, with certain exceptions, a mustering-out payment for members of the Armed Forces engaged in active service in World War II who were discharged or relieved from active service under honorable conditions on or after December 7, 1941. The primary purpose of the act was to aid members of the Armed Forces in their readjustment to civilian life upon their final release or discharge from active military service. Section 3 of the act provided, in part,

"That no member of the armed forces shall receive mustering-out payment under this Act more than once, and such payment shall accrue and the amount thereof shall be computed as of the time of discharge for the purpose of effecting a permanent separation from the service or of ultimate relief from active service."

38 USC 6910a (1952 Ed)

38 USC 6910a (1952 Ed)

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1945

The Armed Forces Voluntary Recruitment Act of 1945, approved October 6, 1945, ch. 393, 59 Stat. 538, amended section 3 of the 1944 act by inserting before the period at the end of the above-quoted proviso, the phrase "or, at the option of such member, for the purpose of enlistment, reenlistment, or appointment in the Regular Military or Naval Establishment." Such amendment was made applicable with respect to enlistments, reenlistments or appointments in the case of the Naval Establishment on and after February 1, 1945, and in the case of the Military Establishment on and after June 1, 1945.

In view of the fact that you reenlisted on the day following your discharge from the naval service on June 11, 1943, no right to mustering-out pay accrued to you at that time since you were not discharged "for the purpose of effecting a permanent separation from the service or of ultimate relief from active service," and since the 1945 amendment was applicable in the case of the Naval Establishment only with respect to enlistments, reenlistments and appointments made on and after February 1, 1945, there is no authority for the payment of your claim.

Accordingly, the settlement of October 30, 1951, is sustained.

Very truly yours,

FRANK H. WEITZEL

Assistant Comptroller General  
of the United States