

DECISION



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

FILE: B-215253

DATE: October 30, 1984

MATTER OF: Commander Michael J. Jacobs, USCG (Retired)

DIGEST:

The doctrine of res judicata is that a final court judgment on the merits of a claim constitutes an absolute bar to a subsequent action by the claimant on the same issues. The Comptroller General adheres to this doctrine and will therefore not consider the claim of a Coast Guard officer for an additional 4 years' credit in the computation of his retired pay based on his 4 years spent as an academy cadet, since he previously asserted this same claim before the Federal courts and received an adverse final judgment on the merits.

Commander Michael J. Jacobs, USCG (Retired), claims additional military retired pay, contending the 4 years he spent as a cadet at the Coast Guard Academy should be included as creditable service in the computation of his pay.^{1/} He previously asserted this same claim before the Federal courts and received an adverse final judgment on its merits. Consequently we are barred by the doctrine of res judicata from giving it any consideration.

Background

Commander Jacobs was a cadet at the Coast Guard Academy from July 1959 to June 1963. He was graduated from the Academy on June 4, 1963, and was commissioned as an ensign of the Coast Guard on the same date. Thereafter, he remained in active service with the Coast Guard continuously

^{1/} This action is in response to a request for a decision submitted under the provisions of 31 U.S.C. § 3529 by Mr. E. J. Rowe, authorized certifying officer, U.S. Coast Guard. The request was forwarded here by the Commandant of the Coast Guard after it was assigned submission number CG-ACO-1438, by the Department of Defense Military Pay and Allowance Committee.

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-during the next 20 years until the date of his retirement on August 1, 1983.

In 1981 while he was still serving on active duty, Commander Jacobs filed suit in the United States District Court for the District of Hawaii seeking a declaratory judgment that he had completed 22 years of creditable service for retirement purposes--4 years as a Coast Guard cadet and 18 years as a commissioned officer--and was therefore then entitled to retire immediately under the provisions of 14 U.S.C. § 291 on the basis of the completion of 20 years' service. The District Court ruled that his 4 years at the Academy were not creditable as service for purposes of establishing eligibility for retirement under 14 U.S.C. § 291. Commander Jacobs appealed, and in 1982 the United States Court of Appeals for the Ninth Judicial Circuit affirmed the District Court's ruling. The Court of Appeals added that:

"Our decision obviates the need to determine whether academy time may be counted in computing retirement pay under 14 U.S.C. § 423. Jacobs concedes that the retirement pay issue is controlled by the same considerations as the length-of-service issue
* * *."^{2/}

Under 14 U.S.C. § 423, a Coast Guard officer's retired pay is generally predicated on a computation using the number of the officer's years of active service as a multiplier. The Coast Guard has been using a multiplier of 20 for Commander Jacobs on the basis of his 20 years' service between 1963 and 1983. He now claims the multiplier should be increased to 24 to include his 4 years as a cadet between 1959 and 1963.

Analysis


The doctrine of res judicata, a latin term meaning a thing or matter settled by judgment, is to the effect that a valid final judgment on the merits of a claim by a court of

^{2/} Jacobs v. United States, 680 F.2d 88, 90-91 (9th Cir., 1982).

competent jurisdiction constitutes an absolute bar to a subsequent action by the identical claimant on the same claim or demand.^{3/} We have long adhered to this doctrine and have consistently held that it precludes the accounting officers of the Government from reconsidering the merits of any claim previously adjudicated by a Federal court.^{4/}

In the present case, the United States Court of Appeals ruled that Commander Jacobs could not count his 4 years as an Academy cadet in establishing his eligibility for a length-of-service retirement, and the Court indicated that this ruling was intended to control and resolve the related issue concerning his eligibility to include those 4 years in the computation of his retired pay. Hence, our view is that the claim for additional retired pay now asserted by Commander Jacobs is a matter that was previously adjudicated by the Court of Appeals. Under the doctrine of res judicata, we are barred from undertaking any review or reconsideration of the Court's action.

Accordingly, we will not consider and we therefore disallow Commander Jacobs' claim for additional retired pay.

for 
Comptroller General
of the United States

^{3/} See, generally, 46 Am. Jur. 2d Judgments § 394 et seq. (1969).

^{4/} See, for example, William C. Ragland, 62 Comp. Gen. 399 (1983); 47 Comp. Gen. 573 (1968); and 5 Comp. Gen. 334 (1925). See also 7 Comp. Dec. 653 (1901).