



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

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PLM II

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June 30, 1980

The Honorable Charlie Rose
House of Representatives

[Computation of Retired Pay]

Dear Mr. Rose:

Reference is made to your letter of May 14, 1980, requesting a report on the retired pay entitlement of your constituent, Mr. Ralph E. Suggs, an enlisted member of the Coast Guard, who was retired for disability.

Apparently, Mr. Suggs feels that his retired pay is being improperly computed because he believes it does not include an additional 10 percent authorized by certain of the provisions of the Coast Guard Personnel Manual which provides that retired pay may be increased by 10 percent of active duty pay for members whose average marks for good conduct during their Coast Guard service were 97-1/2 percent or better.

According to information informally obtained from the Coast Guard, Mr. Suggs was placed on the Temporary Disability Retired List authorized by 10 U.S.C. 1202 on March 16, 1971. At that time he had served 20 years, 4 months and 21 days for basic pay as well as retirement computation purposes. We understand that on October 10, 1975, Mr. Suggs' name was removed from that list and he was permanently retired for disability under the provisions of 10 U.S.C. 1201 with a disability rating of 60 percent, and is receiving retired pay on that basis. Additionally, it has been confirmed that his average good conduct marks were at least 97-1/2 percent of maximum.

Section 12-C-16 of the Coast Guard Personnel Manual, entitled "Computation of Retired Pay", referred to in your letter is a synopsis of the various methods of computing retired pay available to members retiring from the Coast Guard.

Paragraph (b) of that section provides:

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"(b) Election of Physical Disability Retirement

"(1) If he elects physical disability retirement he may elect to receive retired pay based on the monthly basic pay at the time of retirement:

"a. Multiplied by the percentage of disability * * * or

"b. Multiplied by 2-1/2 percent, multiplied by the number of years of service. (An enlisted man may be eligible for 10 percent additional pay for good conduct. See paragraph (d).)"

Paragraph (d) of the same section provides in part:

"(2) Any Regular enlisted man in service on or before 6 September 1963 who is retired by reason of 20 years' service whose average marks in conduct during his service in the Coast Guard were not less than 97-1/2 percent * * * shall be entitled to have his retired pay increased by an amount equal to 10 percent * * *. An enlisted man retired for physical disability on or after 10 August 1956 who has completed 20 years of active service * * * is also entitled to this 10 percent additional pay for good conduct."

While the foregoing provisions reflect, generally, the provisions of law governing the computation of retired pay for members of the Coast Guard, it is not the law itself. It is merely an indication of the retirement and retired pay computation laws which are contained in titles 10 and 14, United States Code, as those provisions relate to members of the Coast Guard.

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The basic provisions of law governing computation of retired pay of Coast Guard personnel who are retired for physical disability are contained in 10 U.S.C. 1401. That section provides in part:

"The monthly retired pay of a person entitled thereto * * * is computed according to the following table. * * * However, if a person would otherwise be entitled to retired pay computed under more than one pay formula of this table or of any other provision of law, he is entitled to be paid under the applicable formula that is most favorable to him." (Underscoring provided.)

Formulas 1 and 2 (permanent disability and temporary disability retirements, respectively), authorize the computation of retired pay by multiplying the member's basic pay entitlement at retirement by either 2-1/2 percent of his creditable years of service or the percentage of his disability. As it would relate to Mr. Suggs' case, the first computation would be based on 50 percent (20 years times 2-1/2 percent) or on 60 percent (his disability rating). Nowhere under any of the formulas contained in 10 U.S.C. 1401 is any member of the uniformed services permitted to have his retired pay increased by adding 10 percent for good conduct.

There is, however, another provision of law which is authorized to be used for this purpose, but it relates only to nondisability retirements. That is 14 U.S.C. 357 (1958), as amended by the act of September 6, 1963, Public Law 88-114, 77 Stat. 144. As it relates to Mr. Suggs case, subsection (c) thereof provides:

"(c) Any enlisted man retired by reason of twenty years' service * * * whose average marks in conduct during his service in the Coast Guard were not less than 97-1/2 percent of the maximum * * * shall be entitled to have his retired pay increased by an amount equal to 10 percent * * *."

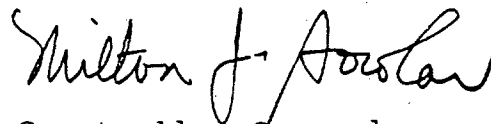
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Sections 355 and 357, title 14, United States Code, provide for Coast Guard enlisted members' retirements by reason of 20 years' service. Section 423 of title 14 authorizes the computing of retired pay on the basis of 2-1/2 percent of the members' basic pay at retirement multiplied by his creditable years of service. Under that section Mr. Suggs would be entitled to nondisability retired pay based on 60 percent (20 years times 2-1/2 percent, plus 10 percent for good conduct under section 357(c)).

In decision B-139045, April 29, 1959, copy enclosed, we held that members of the Coast Guard retired for disability whose retired pay is computed based on percentage of disability may not have their disability retired pay increased by 10 percent for good conduct. Only retired pay computed on the basis of years of service may be so increased. Thus, the 60 percent basis upon which the Coast Guard reportedly is computing Mr. Suggs' retired pay appears correct. To the extent that the provisions of section 12-C-16 of the Coast Guard Personnel Manual indicate a contrary rule they are not in keeping with the controlling provisions of law and may not be followed.

We trust this serves the purpose of your inquiry and regret a more favorable reply cannot be made.

Sincerely yours,



Acting Comptroller General
of the United States

Enclosure