

A QUESTION OF ETHICS – THE FRAUDULENT TREATMENT OF DEFENCE FORCE SUPERANNUANTS

Recently the Ombudsman's conducted an Independent Inquiry into the Defence Force Retirement and Death Benefits Scheme regarding the proper Administration of that scheme. (see enclosure)

This followed the introduction of the Scheme in 1972, which provided a compulsory, contributory Superannuation fund for the Australian Defence Force, some 55,000 long-serving Veteran superannuants that became eligible for a Lump Sum benefit, known as a 'commutation', availed themselves of this benefit to establish their futures, following resignation from the ADF.

DFRDB SCHEME POLICY

The Commonwealth's DFRDB Authority, issued to the Department of Defence the DFRDB Scheme Policy, on the Scheme's introduction in 1973. This was by a Memorandum from the Chairman of the Authority that included a Circular 7/73 that detailed the operating policy conditions of the Scheme.

Within the Circular the definition of the term 'Commutation' (which was undefined within the DFRDB Act and Legislation) was clearly and indisputably stated by the Authority:

'Although a life expectancy factor is used, full retirement pay is not restored should the member live beyond normal life expectancy'.

EXCLUSIONARY DETAILING BY THE DFRDB AUTHORITY

Some 30-years transpired before the above policy statement for 'commutation' ever appeared in any documentation, brochure or pamphlet that was unsystematically distributed to contributors of the Scheme by the administering DFRDB Authority. Nor was it conveyed and communicated by any means within the DFRDB Authority's briefings of contributors, or at resettlement seminars for those eligible personnel leaving the Defence Force.

Clearly this failure represented Exclusionary Detailing by the DFRDB Authority in respect to the Scheme's Contributors who met the eligibility requirements for the Lump Sum commutation benefit.

MAL ADMINISTRATION AND DECEPTION BY DEFENCE

Meanwhile, the Department of Defence failed, also, to convey the accurate DFRDB Policy on Commutation to its employees, the uninformed and misinformed contributors.

To compound matters within the same 30-year period of failed communications by the DFRDB Authority; Official, Defence, Single-Service, Policy documents and publications carried a completely different interpretation of the term Commutation to Defence personnel. This was well communicated throughout the three-Armed Services and was completely at odds with that of the DFRDB Authority.

The acceptance of a Lump Sum Commutation by eligible ADF personnel on retirement, was clearly and indisputably stated by the Department of Defence, as:

‘When you receive retired pay (i.e., pension) you will have the right to ‘commute’. This means that you are able to borrow an amount equal to several times your retired pay at time of your discharge and repay the amount over your normal life expectancy.’

What is indisputably clear (consistent with the Ombudsman’s findings regarding Defence), is that some 55,000 Veterans were deceived and misinformed through the mal-administration of the scheme by the Department of Defence and, I contend, also, the DFRDB Authority. This number (far removed from the Ombudsman’s claim of a few/some superannuants) represents close to 90% of those long-serving Veterans that were eligible to accept the Lump Sum benefit, proffered by the Scheme.

In point of fact DFRDB Authority counsellors, during Resettlement Briefings, actively enticed Veterans to take the Lump Sum, encouraging them with the following quote: ***“you would have to be mad, not to take your lump sum entitlement!”***

As long-serving members of the ADF (their employer), and given the encouragement of the DFRDB Authority experts, is it any wonder that some 90% of eligible DFRDB Superannuants opted to take the Lump Sum entitlement, as advised to them by the ADF, and encouraged by the DFRDB Authority.

Why would they have any reason to believe that their understanding of the terms of their entitlement, wasn’t exactly as conveyed to them during the course of their careers by the ADF?

OUTCOME

This deceit has cost long-serving Veteran Superannuants millions of dollars, annually, in reduced Superannuation Pay over the past decades.

I believe that in the circumstance of Commutation, the situation was, totally beyond the intent of all Governments that have presided over the DFRDB Scheme, to penalise Veterans for the misinformation they suffered.

I propose that this was directly due to the Department of Defence failing to properly and accurately communicate with its subordinate single-Service Departments, to the detriment of those Australians that devoted their lives to the Defence of this Nation. Similarly, that the DFRDB Authority was equally guilty by Exclusionary Detailing to correctly inform eligible Veterans for a period of about 30-years, thereby inducing them to accept a lump sum benefit without being aware of the whole-of-life impost placed on their Superannuation Pay.

OMBUDSMAN

The Ombudsman's report found no evidence of mal-administration of the Scheme by the DFRDB Board, in its various guises until the present time.

On the contrary, the Ombudsman found that the Department of Defence was guilty of deception and misinformation in its administration of the DFRDB Scheme in relation to the 55,000 long-serving Veteran Superannuants detrimentally affected by accepting a lump sum entitlement known as a Commutation.

Despite this Minister Chester determined that no changes would be made to the DFRDB Scheme or reparations considered.

My contention is that the report by the Ombudsman arrived at incorrect conclusions and is just as duplicitous in its content, findings, its use of modelling and conclusions, as that of the DFRDB Authority and the Department of Defence.

Since the release of his report, the Ombudsman has refused any challenge to its findings.

CONCLUSION

I contend that long-serving Veterans, who accepted a Commutation Benefit as a condition of their superannuation Scheme, were duped into accepting a life-term impost on their Superannuation Pay that was unbeknown to them. Further more that the action of the Schemes Administrators has been fraudulent and unethical. Their actions have deluded not only the victims but a succession of Commonwealth Ministers.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ken Stone'.

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