

OPINIONS

pensation allotted to his office or employment. Nothing in this chapter shall be construed to affect any pension status or the renewal of payments of the pension after the expiration of such term of office except that such person shall not accept both such pension or subsidy and salary or compensation for the time he held such position or employment”.

Section 56 of Chapter 84 of the laws of 1954 goes even further, and provides as follows:

“No public employee veteran eligible for membership in the Public Employees’ Retirement System shall be eligible for, or receive, retirement benefits under Sections 43:4-1, 43:4-2, and 43:4-3 of the Revised Statutes.”

From the foregoing, it is apparent that a public employee who is a veteran cannot be eligible for pensions under both Chapter 84 of the Laws of 1954 and R. S. 43:4-1 et seq., and that if the applicant is eligible for membership in the Public Employees’ Retirement System under Chapter 84 of the Laws of 1954, steps should be taken to terminate pension payments under R. S. 43:4-1 et seq.

Very truly yours,

GROVER C. RICHMAN, JR.,
Attorney General.

By: CHARLES S. JOELSON,
Deputy Attorney General.

JANUARY 19, 1955.

MR. GEORGE BORDEN, *Secretary,*
Public Employees’ Retirement System,
48 West State Street,
Trenton, New Jersey.

MEMORANDUM OPINION P-2.

DEAR MR. BORDEN:

This is in answer to your letter of January 5, 1955 in which you request an opinion as to whether a state employee who was inducted into military service of the United States on November 11, 1918 and discharged on November 13, 1918 may be considered a veteran for the purposes of Chapter 84 of the laws of 1954.

Article III, Section 6(L) of Chapter 84 of the laws of 1954 defines a veteran as “any honorably discharged officer, soldier, sailor, airman, marine, nurse, or army field clerk, who has served in the active military or naval service . . . in World War I between April 6, 1917 and November 11, 1918.”

The great weight of authority holds that where a statute requires that a certain thing shall be done between one day and another, each of such days is to be excluded. The word “between” when used in speaking of the period of time “between” two certain dates generally is held to exclude the dates designated as the commencement and termination of such period. *People v. Hornbeck* 61 N. Y. S. 978; *Kendall v. Kingsley* 120 Mass. 94; *Weir v. Thomas*, 44 Nebraska 507; *Greenberg v. Newman*, 320 Ill App 99. *Arcadia Citrus Growers v. Hollingsworth*, 135 Fla 322.

The New Jersey position accords with the weight of authority. In *Delaware, Lackawanna, and Western Railroad Company et al v. Mehrof Bros. Co.*, 53 N. J. L. 205 (Err & App, 1890) the court stated:

"Between two days does not mean on one or both of the two days. When the word is predicable of time, it excludes both terminal days."

In *Melis et al v. Goldstein et al* 4 N. J. Misc 364 (Circuit Ct. 1926), the Court states:

"It is settled in this State that a period of time defined as between two certain dates does not include either of the terminal dates."

It should be pointed out that in the old New Jersey case of *Morris & Essex Railroad Company v. Central Railroad Company of New Jersey*, 31 N. J. L. 205 (Sup. Ct. 1865), the Court held that the word "between" should be treated inclusively where a railroad was chartered to operate "between Phillipsburg and Easton." In that case, the Court was of the opinion that what it termed a "rigidly verbal interpretation of the clause . . . will fall short of the evident and undeniable object of the law makers."

Nevertheless, the courts of New Jersey and the great majority of the courts of other jurisdictions treat the word "between" as indicating an exclusion in cases involving dates rather than distances.

It is, therefore, our opinion that the claim of the applicant for veteran's status within the meaning of Chapter 84 of the laws of 1954 must be denied.

Returned herewith are the documents with which you furnished us.

Very truly yours,

GROVER C. RICHMAN, JR.,
Attorney General.

By: CHARLES S. JOELSON,
Deputy Attorney General.

FEBRUARY 1, 1955.

HON. DWIGHT PALMER,
State Highway Commissioner,
1035 Parkway Avenue,
Trenton, New Jersey.

MEMORANDUM OPINION P-3.

DEAR COMMISSIONER PALMER:

Your recent request for advice asks whether employees of your department may lawfully engage in outside employment and if so, whether there are any limitations on such employment.

Since your request was phrased in general terms our advice must be of a general nature. You are advised that employees of your department may engage in outside employment during a time other than their regular working hours so long as they are able to perform their duties with your department in an efficient and satisfactory manner and so long as such employment does not involve a conflict with the interests of the State. See 35 Am. Jur. 516, 517; 56 C. J. S. 481. Engaging