

only to the extent of 50% of the amount they have contributed in addition to the applicable interest.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: ROBERT S. MILLER
Deputy Attorney General

AUGUST 23, 1961

COLONEL JOSEPH D. RUTTER
Superintendent of State Police
West Trenton, New Jersey

MEMORANDUM OPINION—P-22

DEAR COLONEL RUTTER:

You have asked me for advice as to whether a State Trooper who resigns after less than two years of service is entitled to a refund of his contributions to the State Police Retirement and Benevolent Fund. My answer is in the negative.

The applicable statute is R.S. 53:5-6, which authorizes refunds only to members who are thus terminating their services after two years or more membership in the State Police Force. R.S. 53:5-6 provides in part as follows:

"Any person who is a member of the state police retirement and benevolent fund and who for a period of at least two years has made the payments required to be made to such fund, shall upon the termination of his service, prior to retirement as authorized by this chapter, be entitled to have and receive from the state treasurer the total sum of his said payments with interest thereon at the rate of two per cent per annum."

The State Trooper who resigns after less than two years service has no statutory or constitutional claim to a refund of his employee contributions to the State Police Retirement and Benevolent Fund with or without interest. According to Justice Heher in *Passaic National Bank & Co. v. Eelman*, 116 N.J.L. 279, 284 (Sup. Ct. 1936), the Court said:

"The rule is that compulsory deductions from the salaries of governmental employees, by the authority of the government, for the support of a pension fund, create no contractual or vested right between such employees and the government, and neither the employees, nor those claiming under them, have any rights except such as are conferred by the statute creating and governing the fund."

Very truly yours,

DAVID D. FURMAN
Attorney General