

12 December 1985

AS 15

M E M O R A N D U M

TO WHOM IT MAY CONCERN

Subject : Conditions of Community Service rendered by Religious Objectors

I have prepared this memorandum on behalf of many of us rendering community service, in the hope of opening up a responsible channel of communication between ourselves and the appropriate personnel in the office of the State President under whose ultimate charge we render community service.

We appreciate that there are administrative difficulties inherent in organising a system of community service which hinder the achievement of the levels of efficiency and productivity we hope for. It is our desire to put our skills to use and to give of our best in a spirit of co-operation, and to minimise difficulties with effective communication.

To facilitate this, we believe we need to be able to express (in all reasonableness) both our aspirations and our grievances in respect of our service, and to know that these are receiving due consideration.

We also believe it is our duty to throw light on areas in which we are inadequately treated or provided for, both for our own satisfaction and that of those who will render community service in the future, and so that we are not seen to be treated unfairly in any way at the hands of the Department of Manpower.

It is to a few of these problems which we regard as pressing and deserving of priority treatment that we address this memorandum.

Unless otherwise specified,

"religious objector" refers to one classified in terms of section 72D(1) (a) (iii) of the Act;

"the Act" refers to the Defence Act, No. 44 of 1957

"regulations" refers to the regulations which appear in No. R.588 GG No. 9142 of 30 March 1984, p 62;

"the Minister" refers to the Minister of Manpower.

Of the four problem areas raised, the first is perceived as requiring the most urgent attention, and that is the provision of medical benefits. The other three areas are: tax exemption, the date of start of service, and the living allowance.

01 The Parallels between Community Service and Military Service

The parallels drawn in the Act between military service in the SADF and community service are fundamental to the establishment of a standard of treatment of religious objectors.

The first and most obvious of these parallels is drawn in section 72E (3) (a) of the Act, which clearly states that community service is rendered "instead of rendering service in terms of section 22" (section 22 deals with liability for normal military service in the Citizen Force). Section 72E uses the time period for which one is liable to serve in terms of section 22 as a basis for calculating the duration of community service.

Section 72E(5) (C) provides that community service is not to count as service for the purposes of seniority, promotion and remuneration, in the post in which the objector is placed, for the first two years. This limitation on advantages obviously corresponds with the current initial two-year call-up period in the SADF.

Further parallels are drawn by the regulations. Regulation 14 provides that a religious objector's remuneration may not be more favourable than that determined for serving national servicemen of corresponding classification, mustering or grade over a corresponding period of time.

02

My motivation for raising these parallels is this. Because a religious objector is restricted from benefitting in any material way more than his military counterpart, surely he is at least entitled to enjoy substantially similar or equivalent benefits as the national serviceman. He should not be discriminated against in a way which prejudices him by the forfeiture of benefits which the national serviceman receives. (Indeed both military and community service constitute national service).

03

Two specific areas which come to light are medical and tax benefits. In the first place, the person in military service receives free medical attention (consultation, prescriptions, hospitalisation, treatment) in well-equipped

military hospitals. In the second place, his income is exempt from taxation (in terms of section 10(1) (mA) of the Income Tax Act, No 58 of 1962.

O4 Medical Benefits

The Act sets the parameters for providing for the religious objector's medical benefits; the State President is empowered to "make regulations relating to salaries, wages, leave and sick benefits, subsistence and travel, local, cost of living and other allowances ... as well as the prohibition of the granting of additional benefits by employers" - section 72G(1)(b) of the Act.

Section 72G(1)(i) makes it possible for the State President to apply the Workmens Compensation Act to community service, which he does in Regulation 34.

Regulation 8 provides for immunization, prophylaxis and examination, for specific circumstances of service (rarely required).

The most common medical expense is that incurred on the occasional illness for which one needs to see a doctor and acquire a prescription. State employees receive medical aid benefits in this respect, and a serving national serviceman is treated free of charge. This is the point at which the regulations have not provided adequately for the religious objector.

Regulation 8 (presumably covering "sick benefits") only provides that the objector is to receive normal pay (ie army pay equivalent) while on sick leave.

This is hardly sufficient to cover the costs of consultations and medicines. But what is more important is this. It is quite possible that a religious objector will need to undergo specialist treatment or hospitalisation at some time during his service period (especially if it is six years). He can clearly not afford this on his earnings, and in an emergency will be placed in a critical predicament. It is just a matter of time before something like this happens if the conditions of service are not altered. It is unacceptable that a religious objector rendering community service be made to live under this kind of pressure.

Regulation 41 prohibits the employer from granting the religious objector any type of benefit other than those mentioned in the regulations. The objector thus finds himself penalised in a way in which the legislature did not necessarily intend, since it allowed for sick benefits. (This in addition to the penalty of one-and-a-half times the length of service he has to render - which is penalty enough).

A number of religious objectors are married and the support of dependents is placed under additional strain by the lack of medical support.

It is hoped that the Honourable State President will take cognisance of this unhappy state of affairs and effect remedial regulations eg by providing religious object^{ors} with access to adequate medical facilities, or to medical funding to the same advantage as national servicemen receive.

05 Tax Exemption

As far as tax liability is concerned, it seems unfair that the national serviceman be free from this while the religious objector be liable when he is earning on the same scale. Not only is the religious objector assessed (on the PAYE) basis) on his salary but also on his accommodation and living allowance, paid in lieu of accommodation in official quarters.

We request the Minister to make appropriate recommendations towards the updating of the Income Tax Act, No 58 of 1962 by amendment of section 10(1) (~~m~~ A) to include religious objectors in the exemption (with retrospective effect).

06 Date of Start of Service

A problem encountered by religious objectors is the waiting time between being accepted by the Board for Religious Objectors and starting community service. Initially one has to wait months for a date of set-down before the Board, and thereafter some people (eager to begin their community service as soon as possible) have had to wait for over six months, at the instance of the Department of Manpower, for a placing in a post. This effectively increases the already extended service period, and during this time the objector cannot take other employment because he could be placed in a post at short notice.

There is no law requiring the relevant Manpower office to deal with the matter timeously, and they may neglect the objector at his expense.

Surely a period of two months (or thereabouts) should be sufficient for the Department of Manpower to process a case after the Board has furnished it with his particulars? The objector who co-operates with his instructions should be deemed to have started his service (at the discretion of the Minister) at such a fixed time after appearing before the Board. The State President could provide for this in the regulations, or by amending section 72E(4) of the Act.

07 Living allowance

Lastly, serious problems have been encountered as regards the inadequacy of the religious objector's accommodation and personal living expenses.

Section 72G of the Act empowers the State President to make regulations relating to:-

"(b) ...cost of living and other allowances..."

"(c) occupation of official quarters, the provision of lodging, including meals,..."

As a result, the objector is to be provided with "accommodation" at the employer's expense (regulation 20). "Accommodation" is defined in regulation 1 as meaning

"lodging, bedding, meals, liquid refreshments, laundering, including hotel board levy, service charge and sales tax which may be levied on the said items, on any combination of those items, but excluding alcoholic beverages and dry cleaning".

The objector is to be paid an accommodation allowance when no official quarters are available (Regulations 23 and 24). We are paid an allowance of R250 per month. To provide oneself with such "accommodation" in today's inflationary economy costs more than R250 per month. Board and meals alone exceed that amount.

Furthermore, the escalation of prices over 1985 and that anticipated for 1986, should see regular increases in both salaries and allowances for objectors. For instance, inflation at 16% in 1985 should have pushed the allowance up to R290, and at the anticipated 20% in 1986 takes it to R348 - more realistic.

We have no knowledge that this has been anticipated by the Minister of Manpower, and, if it has been anticipated, expeditiously effected without the cost of fiscal drag (where payment increments lag behind price index increases) being borne by the religious objector.

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also on behalf of Rolfe Eberhard, Peter Weisswange, Neil Myburgh, David Schmidt, Paul Sturrock, William Elliot

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