DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
the Coast Guard Record of:

BCMR Docket No. 2003-012

XXXXX, Xxxxxx X.
xxx xx xxxx, XXX

FINAL DECISION

GARMON, Attorney-Advisor:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on November 25, 2002 upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated September 25, 2003, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked the Board to advance him from xxxxxxxxxx to xxxxxxxxxx, pay grade XX, effective April 1, 20xx, by adjusting his date of rank.

APPLICANT'S ALLEGATIONS

The applicant alleged that his integrated support command (ISC) failed to enter information in his record regarding his July 20xx completion of Chief Petty Officer (CPO) Academy, after he twice requested that his record be updated. He alleged that he participated in the October 20xx Reserve Servicewide Examination (RSWE) and that based on his multiple, he would have been number XX on the eligibility for promotion list. He stated that advancements to XXXX from the eligibility list were made to number XX. However, as a result of the above error on the part of the ISC, he alleged, his name never appeared on the eligibility list and he was erroneously prevented from being advanced.

In support of his allegations, he submitted a statement in which he chronicled his efforts to ensure that his eligibility for advancement was entered into his record. He also submitted a copy of information that the Coast Guard published about the requirements to compete for the RSWE and a copy of an email showing that on April 11, 20xx, he was misadvised about his ability to be placed on the eligibility list.

SUMMARY OF THE APPLICANT'S RECORD

On January 9, 19xx, the applicant enlisted in the Coast Guard Reserve for a term of eight years. Based on his prior military service with the Coast Guard, United States Army, and United States Army Reserve, he joined the Reserves as a xxxxxxx. He was advanced to a XXX, pay grade XX, on January 1, 20xx.

On May 14, 20xx, the Commandant published a general message informing all chief petty officers who had been advanced to XX on or after January 1, 1999, that they were required to successfully complete the Chief Petty Officer (CPO) Academy in order to compete in the servicewide examination for advancement. The message further stated that upon successful completion, CPOs "must show proof of completion to their unit admin[istrative] office … so that the qualification code and the school completion can be entered into the PMIS [Coast Guard's personnel management database]."[1]

On July 26, 20xx, the applicant graduated from the CPO Academy.

According to the memorandum prepared by Coast Guard Personnel Command (CGPC), on August 8, 20xx, the applicant delivered a copy of his CPO Academy graduation certificate to his ISC for its entry into his record. The ISC, however, took no action on the document.

Also in August 20xx, the applicant applied and was approved for a waiver to participate in the October 20xx RSWE. This waiver was required for any member who had not completed the CPO Academy by June 30, 20xx.

In September 20xx, the applicant received his personal data extract (PDE), which indicated that he was ineligible to take the October 20xx RSWE because he had not completed the CPO Academy. In response to this notice, the applicant again contacted his ISC to have the information regarding his completion of the CPO Academy entered into his record and the Coast Guard Human Resources Management System (CGHRMS). Unbeknownst to the applicant, the ISC again took no action.

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[1] In a separate message regarding Reserve CPO Academy classes, dated May 14, 20xx, reservists were notified that they must verify that the school completion and/or qualification code had been entered into the CG database to ensure timely receipt of the SWE. It further stated that if the database did not have the correct codes, "members will **NOT** receive the SWE in October 20xx." (Emphasis supplied.)

On October 20, 20xx, the applicant received and took the RSWE for promotion to PSCS. However, he received no written test results and the Reserve Eligibility List for Advancement, published on December 27, 20xx, failed to list his name.

In January 20xx, the applicant contacted his unit about his name not appearing on the eligibility list. At that time, he was informed that the waiver he applied for in August 20xx was for taking the RSWE but was not for qualifying for advancement. Between January 1 and April 1, 20xx, xx individuals on the Reserve Eligibility List were advanced to XXXX.

On April 6, 20xx, the applicant contacted his area District Command Master Chief (MCPO) about his name not appearing on the eligibility list. He was informed that based on the waiver, he was permitted to participate in the October 20xx RSWE, but was not eligible for advancement because he graduated from the CPO Academy after June 30, 20xx.

On September 3, 20xx, the applicant received his 20xx PDE for the October 20xx RSWE, which indicated that he lacked proof of his graduation from the CPO Academy. He again contacted his ISC regarding the discrepancy and received assurances that the error would be corrected by September 7, 20xx. At that time, he faxed a copy of his signed PDE to the ISC.

On September 23, 20xx, the applicant's CPO Academy graduation certificate was finally entered into CGHRMS.

On September 26, 20xx, the applicant was advised by Coast Guard Human Resources Service and Information Center, Advancements Section (HRSIC-ADV) that he would not be able to sit for the October 20xx RSWE because his CPO Academy information had not been timely entered into the CGHRMS.

On October 8, 20xx, the applicant again contacted the MCPO, who informed him that when he created the December 20xx Reserve Advancement List, he removed the applicant's name from the eligibility list because his record contained no documentation indicating his completion of the CPO Academy. The MCPO further stated that based on the applicant's multiple of xxx, he would have been advanced to XXXX on April 1, 20xx.

VIEWS OF THE COAST GUARD

On March 20, 2003, the Board received an advisory opinion from the Chief Counsel of the Coast Guard. In adopting the analysis of CGPC, the Chief Counsel recommended that the Board grant relief in this case.

The Chief Counsel asserted that the ISC committed numerous administrative errors in the matter. He stated that because no member has the authority or capability to enter information into his or her own account in the CGHRMS, it was reasonable for the applicant to rely on the ISC to update his CPO Academy graduation information. He stated that because the CGHRMS program was new for Reserve members who have access to the system only when performing duty, the applicant could not personally verify whether the information was entered into his record.

The Chief Counsel stated that had the ISC timely entered the applicant's proof of graduation from the CPO Academy, he would have placed number xx on the Reserve Advancement List and been advanced on April 1, 20xx. He stated that the record documents that the applicant made all reasonable efforts to ensure that his CPO Academy graduation was included in his record. He stated that when the applicant attempted to resolve the fact that he was not placed on the eligibility list, he was erroneously advised by his unit supervisor and the MCPO. He stated that due to failures beyond his control, the applicant was unjustly deprived of advancement on April 1, 20xx.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On March 24, 2003, the Chair sent a copy of the views of the Coast Guard to the applicant and invited him to respond within 15 days. On April 3, 2003, the Board received a response from the applicant, stating that he had no objections to the Chief Counsel's recommendation.

APPLICABLE LAW

Personnel Manual (COMDTINST M1000.6A)

Article 5.D.1.b. of the Personnel Manual deals with collecting Personnel Data Extract (PDE) information. It provides the following:

> Commanding Officer, Human Resources Service and Information Center (HRSIC/adv) collects the PDE [personnel data extract] information from the members' PMIS data. A crucial part of accurate data collection is timely submission of PMIS transactions. Members, commands, and PERSRUs [personnel reporting units] should ensure the necessary PMIS transactions are submitted promptly by the specified deadlines.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submission, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.

2. The applicant asserted that he was prevented from being advanced to XXXX, pay grade XX, on April 1, 20xx because the Coast Guard committed a clerical error regarding his graduation from CPO Academy. Under Article 5.D.1.b. of the Personnel Manual, the applicant's ISC should have but failed to enter his CPO Academy graduation information into the CGHRMS in a timely manner for inclusion in the applicant's PDE. Therefore, the Board finds that the Coast Guard committed an error when it found the applicant ineligible for advancement and removed his name from the 20xx Reserve Advancement List.

3. The applicant has proven by a preponderance of the evidence that he should have been advanced to XXXX as of April 1, 20xx. The Chief Counsel has determined that had the applicant's proof of graduation been timely entered into his record and the CGHRMS, the applicant would have placed number xx on the Reserve advancement eligibility list and been advanced to PSCS on April 1, 20xx. The record further indicates that despite the applicant's making reasonable efforts to establish his eligibility for advancement, the error in his record was due to administrative failures beyond his control. In view of the Coast Guard's errors and the applicant's efforts to correct the same, the Chief Counsel recommended that relief should be granted in this case.

4. Accordingly, the applicant's record should be corrected to show that he was advanced to XXX, pay grade XX, on April 1, 20xx.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of XXX Xxxxx X. Xxxxx, xxx xx xxxx, USCGR, for the correction of his military record is granted as follows:

His record shall be corrected to show that he was advanced to xxxxxxxx, pay grade XX, on April 1, 20xx.

The Coast Guard shall pay him any back pay and allowances he is due as a result of this correction.

Julia Andrews

Margot Bester

Donald A. Pedersen