

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2003-124

FINAL DECISION

ULMER, Chair:

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 August 4, 2003, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated April 15, 2004, 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 correct his military record to make him entitled to a Zone B selective reenlistment bonus (SRB)¹ with a multiple of 2.5 instead of the 2.0 multiple he actually received. He alleged that upon reenlisting on May 21, 2003, he was advised that he would receive a multiple of 2.5. However, after reenlisting he was paid a Zone B SRB with a multiple of 2 because the higher 2.5 multiple did not become effective until July 1, 2003. The applicant alleged that had he known that the additional .5 multiple (authorized for certain competency codes) was not available until July 1, 2003, he would have extended his enlistment until that date and then reenlisted.

In support of his allegations, he submitted a copy of his reenlistment contract showing that he was promised a Zone B SRB with a multiple 2.5. He also submitted a

¹ SRBs vary according to the length of each member's active duty service, the number of months of service newly obligated by the reenlistment or extension of enlistment contract, and the need of the Coast Guard for personnel with the member's particular skills, which is reflected in the "multiple" of the SRB authorized for the member's skill/rating, which is published in an ALCOAST. Coast Guard members who have at least 6 but no more than 10 years of active duty service are in "Zone B." Article 3.C., Coast Guard Personnel Manual.

copy of an administrative remarks (page 7) page advising him that he was eligible to reenlist for six years and to receive an SRB multiple of 2.5 under ALCOAST 329/02. The page 7 further stated that the ALCOAST 329/02 had been made available to the applicant.

SUMMARY OF THE RECORD

On July 19, 1993, the applicant enlisted in the Coast Guard for a term of four years and has serve continually since that time. On May 26, 1999, he reenlisted for four years that obligated service through May 25, 2003. His most recent reenlistment occurred on May 21, 2003 for six years, wherein he was promised the Zone B SRB with a multiple of 2.5.

APPLICABLE REGULATIONS

Coast Guard Personnel Manual

Article 1.G.14.a.2. of the Personnel Manual provides that a member may extend his reenlistment "[f]or any number of full years and/or full months up to six years to ensure sufficient obligated service [OBLISERV] for these purposes:

- "a. Attend a resident school.
- "b. Participate in the Coast Guard Tuition Program.
- "c. **INCONUS and OUTCONUS** assignments; . . .
- "d. **Advance to E-7, E-8, or E-9;** . . .
- "e. Meet an approved retirement date."

Article 1.G.14.a.4. provides that the Commander, Coast Guard Personnel Command (CGPC) may authorize an extension for one year or other such period in specific cases.

Article 3.C.3 (Written Agreements) states that "all personnel with 10 years or less active service who reenlist or extend for any period, however brief, shall be counseled on the SRB program."

Article 3.C.6. (Change in Multiple) states the following:

All Agreements to Extend Enlistments signed before the effective date of the change will be at the old multiple level. All agreements made on or after the effective date of the change will be at the new level. Members desiring to extend their enlistments or reenlist early to take advantage of a higher bonus multiple may do so within the provisions of this chapter and or Articles 1.G.14 and 12.B.7 [of this instruction].

Pertinent ALCOASTS

ALCOAST 182/03 was issued on April 24, 2003, and became effective on July 1, 2003. It established SRB multiples for personnel in certain skill ratings who reenlisted or extended their enlistments for at least three years and up to six years. Under ALCOAST 182/03, members who were MK1s were eligible for a Zone B SRB calculated with a multiple of two and was entitled to an additional .5 multiple for having certain boat engineering competency codes.

ALCOAST 329/02 was issued on July 3, 2002 and was effective from August 5, 2002 through June 30, 2003. It established a multiple of 2 for MK2s and above but did not authorize the additional .5 for having certain competency codes.

VIEWS OF THE COAST GUARD

On February 28, 2003, the Judge Advocate General (TJAG) of the Coast Guard recommended that the Board grant the following relief: (1) void the May 21, 2003 reenlistment contract, (2) order a two-month extension to cover the period from May 26, 2003 through July 1, 2003, and finally (3) reenlist the applicant on July 2, 2003, which would make him eligible for the 2.5 SRB multiple.

TJAG stated that the record supports the applicant's allegation of erroneous counseling and the erroneous promise of a Zone B SRB with a multiple of 2.5. He noted that the applicant acted promptly to attempt to correct the alleged error.

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On November 13, 2003, the applicant responded to the Coast Guard advisory opinion, stating that he agreed with the recommendation for relief.

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 submissions, and applicable law:

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

2. When the applicant reenlisted on May 21, 2003, his then four-year reenlistment was due to expire on May 25, 2003. Therefore, he was required to either extend his enlistment or reenlist by the expiration date of his then current enlistment or he would have been discharged from the Coast Guard. ALCOAST 329/02 was in effect on May 21, 2003, and it only authorized a multiple of 2 for MK1s, like the applicant.

According to Article 3.6.C. of the Personnel Manual, the applicant was not eligible for the additional .5 SRB multiple because ALCOAST 182/03, which authorized the additional multiple, did not become effective until July 1, 2003.

3. The applicant claimed that if he had known on May 21, 2003, that ALCOAST 182/03 would not become effective until July 1, 2003, he would have extended his enlistment in May 2003 for two months and reenlisted after July 1, 2003. TJAG admitted that the Coast Guard improperly counseled the applicant by informing him that he was entitled to a multiple of 2.5 and recommended that the Board remedy the error, as the applicant had suggested, by correcting his record to show that he executed a two month extension on May 26, 2003 and by further correcting the record to show that he reenlisted on July 2, 2003, thereby becoming eligible for the additional .5 SRB multiple.

4. For the reasons discussed herein, the Board is unable to grant the recommended relief. Chapter 3.C.6 (Selective Reenlistment Bonus) of the Personnel Manual states that "members desiring to extend their enlistments . . . to take advantage of a higher bonus multiple may do so within the provisions . . . of Article 1.G.14. [of the Personnel Manual]." On May 21, 2003, the applicant would not have been permitted to execute a two-month extension of his enlistment because he did not meet the requirements of Article 1.G.14.a.2. of the Personnel Manual. This provision authorizes extensions of enlistment for a period of months only for the purpose of attending school, participating in Coast Guard Tuition Assistance Program, transferring to a new assignment, advancing to E7, E-8, or E-9, or meeting an approved retirement date. The applicant was in none of these situations on May 21, 2003. He was, however, near the end of his then current enlistment, which was May 25, 2003, and he was required to either reenlist or extend his enlistment or he would have been discharged from the Coast Guard. Since he did not meet any of the requirements for a short-term extension, any such extension executed in May 2003 for less than two years² would have required the approval of CGPC, under Article 1.G.14.a.4. of the Personnel Manual.

5. The applicant received the SRB multiple that was authorized for his rating under ALCOAST 329/02 at the time he reenlisted. Moreover, he was not eligible to extend his enlistment for a two-month period in May 2003 to take advantage of the higher SRB multiple that became effective on July 1, 2003. He has, however, presented evidence showing that on May 21, 2003, he was improperly counseled that he would receive a Zone B SRB with a multiple of 2.5. When an applicant proves that he has received improper SRB counseling, the Board's policy is not to fulfill the erroneous promises made by the applicant's command, but to return the applicant to the position he would have been in had he been properly counseled.

² Article 1.G.14.a. of the Personnel Manual allows career personnel to extend their enlistments for not less than two nor more than six years, at their request.

6. Therefore, if the applicant had been properly counseled in May 2003, he would have been told that, under ALCOAST 329/02 he was eligible only for a multiple of 2, which is what he received. He would have been further advised that he could not extend for a period of months to take advantage of the higher SRB multiple that became effective on July 1, 2003, because such short-term extensions solely for the purpose of obtaining a higher SRB multiple are not permitted under the Personnel Manual. There is no evidence in the record that CGPC, under the authority granted to him under Article 1.G.14.a.4 of the Personnel Manual, would have approved a short-term extension solely for the purpose of allowing the applicant to qualify for a future higher SRB multiple. The applicant was paid an SRB multiple of 2 in accordance with the ALCOAST in effect at the time he reenlisted. He is by regulation entitled to no more.

7. In some cases where improper counseling has occurred, the Board has allowed a member the option of voiding a reenlistment contract containing an erroneous promise and to be discharged from the Coast Guard, if he so chose. However, in this case, where the applicant received a Zone B multiple of 2, where he has over 10 years of service, and where he has not expressed a desire to be discharged if he does not receive payment of the additional .5 SRB multiple, the Board will not direct such optional relief.

8. Accordingly, the applicant's request should be denied.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

The application of XXXXXXXXXXXXXXXXXXXX, USCG, for correction of his military record is denied.

Thomas F. Muther, Jr.

Adrian Sevier

Thomas H. Van Horn