



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

LCC:lc  
Docket No. 4798-02  
20 September 2002

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: GUNNERY [REDACTED]  
Review of naval record

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments  
(2) Info Paper prepared by HQ CMC RAP-36  
(3) HQ CMC MMPR-2 ltr, 20 Mar 02 &  
MCO P1400.32c, para 3602.d  
(4) MARADMIN 467/01  
(5) HQCMC MMPR-2, 9 Jul 02  
(6) Subject's microfiche record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, the applicable naval record be corrected to show that Petitioner is entitled to remedial consideration for promotion to paygrade E-8 for the CY 2001 Reserve Staff Noncommissioned Officer Selection Board.

2. The Board, consisting of Messrs. Brezna, Milner, and Neuschafer, reviewed Petitioner's allegations of error and injustice on 4 September 2002 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Prior to filing enclosure (1) with this Board, Petitioner exhausted all administrative remedies afforded under existing law and regulations within the Department of the Navy.

b. Petitioner was considered for promotion to paygrade E-8 by the CY 2001 Reserve Staff Noncommissioned Officer Selection Board in the wrong zone.

c. Marines are considered by promotion boards in three separate zones based on date of rank (DOR) and active duty base date (ADBD). See enclosure (2).

d. The date for the floor of the "in zone" population for MOS 8412 was incorrectly entered; (e.g. 19980102 was transposed to 19981002), and transmitted to MMPR, the office within the Marine Corps that is responsible for promotion boards.

e. The error resulted in an expansion of the "in zone" population by nine months. As a result, two Marines that should have been considered in the "below zone" population were erroneously promoted "in zone".

f. Due to the inflation of the "in zone" population, two Marines that should have had a 60% opportunity for promotion may have been passed over.

g. USMC, RAP-36, the office responsible for establishing the promotion criteria for the active reserve master sergeants recommended that the "pass" be removed from the record and that each Marine erroneously considered in the "in zone" vice the "below zone" be given remedial consideration for promotion. See enclosure (2).

h. Petitioner requested remedial consideration for promotion citing the fact that he was not considered for promotion to paygrade E-8 in the proper zone and was not afforded a 60% opportunity for promotion to paygrade E-8.

i. HQ MMPR denied his request stating it did not satisfy the criteria contained in MCO P1400.32C, paragraph 3602, when in fact MCO P1400.32C, paragraph 3602.d specifically authorizes remedial promotion when the Marine is erroneously considered in the wrong zone or primary military occupational speciality/occupational field. See enclosure (3).

j. Petitioner then submitted a request to the Board for Correction of Naval Records requesting consideration for promotion to E-8 before an Enlisted Remedial Selection Board alleging that he was only given a 41.6% opportunity when he should have received a 60% opportunity as published by MARADMIN 467/01 had he been considered in the correct "zone" for promotion. See enclosure (4).

k. Petitioner alleges that the practical result of junior personnel being improperly considered and promoted is a promotion "freeze" because such individuals will occupy E-8 allocations for additional years prior to their mandatory separation. Consequently, the Marine Corps will not be able to afford Petitioner the opportunity for promotion prior to mandatory separation. If not afforded the 60% opportunity for selection through the remedial process at this time he will be compelled to retire in his present grade because service limitations mandated by the Marine Corps for the Active Reserve program will require his separation before his MOS is again open for promotion.

l. In correspondence attached as enclosure (5), the office having cognizance over the subject matter involved in Petitioner's application recommended denial, commenting again that his request did not satisfy the requirements of MCO P1400.32C, paragraph 3602.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (5), the Board finds the existence of an injustice warranting the requested relief. In this connection, the Board concluded that the Petitioner should have a 60% opportunity for promotion since the Marine Corps published MARADMIN 467/01 which stated that each Marine could have a 60% opportunity for selection for promotion. Also, the MCO P1400.32C, paragraph 3206.d, ENLPROMMAN, authorizes consideration for remedial promotion when a Marine is considered in the wrong "zone".

Accordingly, the Board recommends the following corrective action.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that

a. Petitioner will be given remedial consideration for promotion for the CY 2001 Reserve Staff Noncommissioned Officer Selection Board.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Boards proceedings in the above-entitled matter.

ROBERT D. ZSALMAN  
Recorder



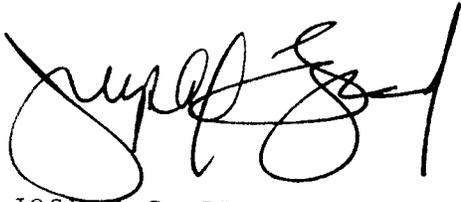
G. L. ADAMS  
Acting Recorder

5. The foregoing action of the Board is submitted for your review and action.



W. DEAN PFEIFFER

Reviewed and approved: OCT 23 2002



JOSEPH G. LYNCH  
Assistant General Counsel  
(Manpower and Reserve Affairs)