



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

TRG  
Docket No: 10694-07  
9 October 2008

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 September 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

Your record shows that on 31 August 1968 you transferred to the Fleet Reserve with 19 years, 6 months and 11 days of active service. Subsequently, you were retired upon completion of 30 years of total service. The law in effect at the time, allowed members to transfer to the Fleet Reserve with this length of service and be paid as if they had completed 20 years of service.

At the time you retired it was required that benefits from the Department of Veterans Affairs (DVA) be offset against retired pay. That law has recently changed to allow concurrent receipt of disability benefits and retired pay. However, those payments are only being extended to individuals who were retired with 20 years of active service. Since you retired with less than 20 years of active service the Defense Finance and Accounting Service is apparently denying you concurrent receipt of benefits.

Since the law allowing retirement with less than 20 years of active service was in effect for many years, there are thousands of individuals in your situation. Since your retirement was proper at the time and you are being treated no differently than many others, the Board concluded that a correction to your record is not warranted. The Board noted that the proper way to solve this problem is to attempt to change the law to cover all

individuals in your situation.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director