



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

TRG
Docket No: 1044-09
17 April 2009

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

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

Encl: (1) Case Summary
(2) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a commissioned officer in the Navy Reserve, filed an application with this Board requesting, in effect, that her record be corrected so that she can be credited with retirement points during the period from 31 May 1980 to 28 September 1981.

2. The Board, consisting of Mr. [REDACTED], Mr. [REDACTED] and Mr. [REDACTED], reviewed Petitioner's allegations of error and injustice on 1 April 2008 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. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and consider the application on its merits.

c. Petitioner resigned her commission and was honorably discharged from the Regular Navy on 31 May 1980. At that time, she had completed 10 years, 10 months and 10 days of active service. On 25 April 1981 she affiliated with a reserve unit and during the period from 2 May to 13 September 1981, she attended drills, and from 14 September to 25 September 1981, she performed active duty for training. Apparently about this time it was discovered that she did not have a reserve commission. On 28 September 1981, she was commissioned as a nurse in the Navy Reserve.

d. Petitioner's statement of service for Navy Reserve Retirement shows that from the date of her recommissioning on 28 September 1981 until the end of her anniversary year on 27 September 2008 she has been credited with 26 consecutive qualifying years. This period, when added to her prior service means that she has 37 years, 10 months and 11 days of qualifying service. Her statement of service dated 18 March 2009 shows 6,501 retirement points. During her career, she was promoted to captain (CAPT; O-6).

e. Since Petitioner is either retired or preparing to retire, she is now requesting that her record be corrected to allow her to receive credit for the retirement point credits she earned during the period from 31 May 1980 to 28 September 1981.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. It is clear that she requested a reserve commission and believed that she had status when she began to participate in the Navy Reserve. Given the circumstances, the Board concludes that the record should be corrected to show that she was commissioned in the Navy Reserve at an earlier date. The Board is aware that to grant her request to show that she had continuous service would result in a change in the beginning and ending date of her anniversary year and would require a possible recomputation of about 26 years worth of retirement points. Given the passage of time, this may not be possible. Therefore, the Board concludes that the best way to correct the record is to show that she was commissioned in the Navy Reserve on 28 September 1980 vice the commission in that component of 28 September 1981 now of record.

Once she has status, she can be administratively credited with any documented retirement points she earned during that period.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reasons for the change in her retirement point total and number of qualifying years.

RECOMMENDATION:

a. That Petitioner's record be corrected to show that she was commissioned in the Navy Reserve on 28 September 1980 vice the commission in that component of 28 September 1981 now of record.

b. That 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 Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


BRIAN J. GEORGE
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy. ,


W. DEAN PFEIFFER
Executive Director