



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

MEH  
Docket No. 12074-10  
29 Aug 11

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 29 August 2011. 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. In addition, the Board considered the advisory opinion furnished by CNRC memo 1133 Ser N323 of 17 May 11, a copy of which is attached and was previously furnished to you.

The Board members also considered your request for a personal appearance, however they found that the issues in the case were adequately documented and that a personal appearance would not materially add to the Board's understanding of the issues involved. Thus, your request for a personal appearance has been denied.

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 for the reasons explained below.

Your application requests a change to your record that would entitle you to benefits under the Health Professional Loan Repayment Program (HPLRP).

Records show that in 2009, you sought an appointment with the United States Navy in the biochemistry field (1810). As part of the application process, you requested to be considered for the HPLRP incentive.

By letter of 7 October 2009 (in FY 2010), you were advised that you had been selected for an appointment. The selection letter makes no mention or offer of the HPLRP. As you know, the HPLRP was not authorized for the biochemistry specialty in fiscal year 2010.

On 11 December 2009, you executed a "Medical Service Corps Service Agreement" and an "Officer Appointment Acceptance"<sup>1</sup>. Neither document makes any mention or offer of the HPLRP incentive. Moreover, your Medical Service Corps Service Agreement includes the following paragraph: "I have read and completely understand the meaning and content of the above (agreement). No promises either written or oral have been made to me in connection with my application for a commission in the Medical Service Corps except as specified above."

You have complained, essentially, that you should be entitled to the HPLRP because [REDACTED] verbally assured you that you would be eligible for and receive the HPLRP. The Board carefully considered the evidence submitted in support of this claim.

Appointment incentives, such as the HPLRP, are governed by statutes and regulations. Erroneous information about those statutes and regulations supplied by government officers, agents, or employees, such as [REDACTED] cannot serve as a basis for payment of an incentive in excess of those authorized by the governing directives. [REDACTED] had no authority to make exceptions to existing statutes and regulations pertaining to HPLRP or make changes to them. The Board regrets that you may have been verbally furnished with erroneous information about your eligibility for the HPLRP from [REDACTED]. However, the Board notes that the HPLRP was not included in your selection letter and was not included in your Medical Service Corps Service Agreement. Additionally, it is well settled that erroneous information does not serve as a basis for the payment of allowances in excess of those that are provided for by statute or regulation.

<sup>1</sup> The Board notes that, at your initial appointment, you were granted four years of entry grade credit and were appointed at the advanced grade of Lieutenant (pay grade O3). Your agreement states that you will serve on active duty for a period of at least three years.

The Board also considered your alternate request for an equivalent monetary bonus as a substitute for the HPLRP. However, the Board agreed with the advisory opinion that no relief is warranted because "no accession bonus has been authorized for the biochemistry specialty in recent years thus there is no known accession incentive of equivalent value." Accordingly, your application is denied. The names and votes of the members of the panel will be furnished upon request.

For completeness, two additional matters must be addressed.

(a) Your application requests a copy of an investigation performed by the Navy in response to your complaint about [REDACTED]. Your request should be made directly to the Navy Recruiting Command at 5722 Integrity Drive, Millington TN 38054.

(b) Your application avers that your commission was accepted "under a falsehood" and that the circumstances surrounding your appointment have given you a "jaundiced view" of your future in the Navy. The Board regrets your discontent. In the event that, as a result of the decision above, you desire to be released from your agreed upon term of obligated service, you may reapply to this Board for consideration of your 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 also 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

Enclosures