



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD, SUITE 1001  
ARLINGTON, VA 22204-2490

DJC  
Docket No. NR9379-13  
15 Jul 14

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

Subj: [REDACTED]

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

Encl: (1) DD Form 149 w/attachments  
(2) CNP memo 7220, Ser N130C4/14U0497 dtd 30 Apr 14  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show Petitioner was entitled to payment of Involuntary Separation Pay (ISP) when he was discharged.

2. The Board, consisting of Mr. Zsalman, Mr. George, and Mr. Ruskin, reviewed Petitioner's allegations of error and injustice on 14 July 2014 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. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.

#### CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following partial corrective action:

a. Petitioner was discharged on 25 September 2013 for Completion of Required Service (High Year Tenure).

b. Petitioner was reduced from RP2 to RP3 on or about 25 March 2013 per the Personnel Online Listing (POLL), and NAVPERS 1616/26 report period 16 March 2013 to 25 March 2013.

c. OPNAVINST 1900.4 dated 20 December 2005 states the following: "Enlisted members separated due to high year tenure will be eligible for full separation pay, provided they meet the other requirements of this instruction, and are eligible for advancement at the time of separation under policies established by the Chief of Naval Personnel (CHNAVPERS)."

d. BUPERSINST 1430.16f dated 2 November 2007 states the following: "Time-in-rate (TIR) for an E-4/E-5 is 12 months." Furthermore, one eligibility requirement(s) is the Pass Navy-wide advancement-in-rate examination. The Petitioner possessed neither the required time-in-rate nor a passing score on the examination.

RECOMMENDATION:

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

a. The Certificate of Release or Discharge from Active duty (DD Form 214, Aug 2009), executed on or about 25 September 2013, is modified to read block 26 (Separation Code) "JGH" vice "LBK", block 28 (Narrative reason for separation) "NON-RETENTION ON ACTIVE DUTY" vice "COMPLETION OF REQUIRED ACTIVE SERVICE".

b. Petitioner executed a 3 year immediate reenlistment contract (NAVPERS 1070/601), operative on or about 26 September 2013. Note: half payment of non-disability separation pay is authorized to the member who has entered into a written agreement with the Navy to serve in the Ready Reserve for a period of not less than 3 years following the separation from active duty. This contract is in addition to any other remaining service obligation. Furthermore, any other immediate reenlistment contract executed by the Petitioner for the purpose of an Individual Ready Reserve agreement is null and void.

c. Note: in those cases where a member is entitled to an Individual Ready Reserve (IRR) Contract, PERS-93 will create the Reserve Contract document as well as facilitate the Petitioner's gain into the IRR, and will make the required distribution of the contract based on this action.

d. Petitioner was authorized payment of "half" Involuntary Separation Pay (ISP) when he was discharged on 25 September 2013.

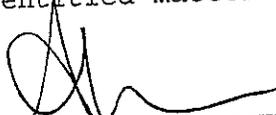
e. Note: the separation pay described above will be offset by any Veterans Disability Compensation to which Petitioner is or becomes entitled.

f. That part of the Petitioner's request for corrective action that exceeds the foregoing is denied.

g. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

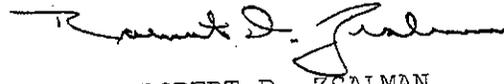
4. It is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
BARBARA A. NAHULAK  
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.

15 Jul 14

  
ROBERT D. ZSALMAN  
Acting Executive Director