



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
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ARLINGTON VA 22204-2490

BAN
Docket No. NR03533-14
8 May 2014

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) Navy Personnel Command (NPC) 1430 Ser 811/067 of 28 Feb 2014
 - (3) March 2013 Navy-wide Advancement Profile Sheet for MM2/E-5
 - (4) Physical Readiness Information Management System (PRIMS) Report of 18 Nov 2013
 - (5) Administrative Remarks NAVPERS 1070/613 of 3 Apr 2013
 - (6) Commanding Officer's frocking ltr of 6 Dec 2013

1. Pursuant to the provisions of reference (a) Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to validate his March 2013, Navy-wide advancement examination and show that he met the criteria to be advanced to E-5/MM2.

2. The Board, consisting of Messrs. Zsalman, Ruskin and George, reviewed Petitioner's allegations of error and injustice on 28 April 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. The Board also considered enclosure (2) which is a recommendation from Naval Personnel Command (NPC) that no relief be granted.

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 March 2013, Petitioner was eligible and participated in the March 2013 Navy-wide advancement examination for E-5/MM2. On 1 April 2013, there was a mandatory command Physical Fitness Assessment (PFA). The PFA comprised of a Physical Readiness Test (PRT) and a Body Composition Assessment (BCA). Navy personnel are required to pass both parts, unless waived, in order to have a passing score. However, Petitioner was not authorized to take the PRT since he failed the BCA portion of the PFA with a BCA of 23% (maximum allowed is 22%).

c. On 3 April 2013, Petitioner was given a page 13 counseling entry in the Physical Readiness Information Management System (PRIMS) due to his failure to meet the BCA standards, enclosure (3). Petitioner was then assigned to the Fitness Enhancement Program (FEP). FEP is mandatory for any member who fails any portion of the PFA. Participation in FEP was required by Petitioner until he passed the next regularly scheduled command PFA and scored "good" or better in all PRT components.

d. In May 2013, the results of the March 2013 Navy-wide advancement examination were released and Petitioner found out that he was selected to advance to E-5/MM2, enclosure (4). However, due to his PFA failure, his command withheld his advancement until he passed the PFA requirements¹.

e. On 18 November 2013, Petitioner passed the PFA and was recommended by his commanding officer (CO) to have his promotion reinstated, enclosure (5). Therefore, on 6 December 2013, his CO "frocked" him to pay grade E-5/MM2, enclosure (6). However, pursuant to the advancement manual BUPERSINST 1430.16F, the command was required to notify PERS 812 and the Naval Education and Training Professional Development and Technology Center (NETPDTC) to reinstate a previously withheld advancement prior to the limiting date of 31 December 2013, otherwise, the advancement exam would be terminated. The command failed to

¹ As part of OPNAVINST 6110.1J Physical Readiness Program, of 11 Jun 2011, it states, "Enlisted Advancements. Enlisted members shall have advancement or frocking deferred if they have failed the most recent official PFA. Members may participate in monthly FEP PFA to regain eligibility. If not within standards by promotion cycle limiting date, the advancement authority will be withdrawn".

notify the appropriate agencies, and through no fault of Petitioner, his advancement to E-5/MM2 was terminated.

f. By enclosure (2), NPC recommended that no relief be granted. NPC indicated that "failure to reinstate a previously withheld advancement prior to the limiting date for the advancement cycle will terminate the member's selection". Although it is unfortunate, NPC asserts that a command admission of error is not adequate justification for violation of the policies.

CONCLUSION:

Upon review and consideration of all the evidence in the record, the Board concludes that Petitioner's request warrants favorable action. The Board determined the following factors militated in favor of relief: That Petitioner did pass the PFA before the limiting date, as required, that the CO endorsed Petitioner's selection for advancement by "frocking" him prior to the limiting date, and that it was through no fault of Petitioner that the command made the error and Petitioner should not be penalized for such error. Therefore, the Board concludes that the record should be corrected to validate Petitioner's March 2013 E-5/MM2 advancement examination and that he be advanced with an effective date of 16 December 2013 and a Time in Rate date of 1 July 2013.

RECOMMENDATION:

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

a. Petitioner's March 2013 E-5/MM2 advancement examination will be revalidated. Petitioner will be advanced to E-5/MM2 with an effective date of 16 December 2013 and a Time in Rate date of 1 July 2013.

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

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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

Bronte I. Montgomery
BRONTE I. MONTGOMERY
Acting Recorder

5. Pursuant to the delegation of authority set out in enclosure (13) and having assured compliance with the provisions of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723), it is hereby announced that the foregoing corrective action, has been approved by the Board on behalf of the Secretary of the Navy.

8 May 2014

Robert D. Zsalmán

ROBERT D. ZSALMAN
Acting Executive Director

RGW

Reviewed and Approved:

Robert L. Woods

5/28/14

~~Reviewed and Disapproved:~~

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