



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

BAN
Docket No. NR05041-14
27 October 2014

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) Navy Personnel Command (NPC) ltr 5420 Pers-912 undated
(3) Statement of Service for Navy Reserve Retirement dated 29 Jun 2011
(4) Bureau of Naval Personnel ltr 1000 Pers 913 of 19 Jun 1992
(5) Letter from Petitioner to BCNR dated 8 Apr 2011

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 show that he qualified for a non-regular Navy Reserve retirement after 20 years of service on 1 October 1993.

2. The Board, consisting of Messrs. [REDACTED] on 10 September 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 March 2014, Petitioner submitted a request to BCNR to show that he completed 20 years of qualifying service in the Navy Reserve and to receive a non-regular Reserve retirement at age 60, enclosure (1).

c. On 3 April 1968, Petitioner joined active duty Naval service from 3 April 1968 to 2 January 1970, when he immediately transferred to the Navy Reserve on 3 January 1970. Petitioner continually served

in the Navy Reserve until the expiration of his contract on 2 April 1974.

d. After a break in service, on 23 September 1975, Petitioner re-affiliated with the Navy Reserves and served without a break until 21 September 1993, when he was honorably discharged. At that time, he had 19 years, 8 months, and 29 days of qualifying service, enclosure (3).

Note: Navy Reservists need 50 points to complete a satisfactory year in either drilling time or correspondence courses.

e. Petitioner claims that he lost his billet in September 1993 due to High Year Tenure (HYT) and was advised to do three correspondence courses to complete the year, enclosure (4). Although Petitioner claims he completed the courses, they were still not enough to complete 20 "qualifying" years for a Reserve retirement.

f. Petitioner acknowledges that he failed to monitor the situation until he retired from his civilian job at age 62, when he realized that he was not retired from the military. Additionally, he notes that he served his country faithfully and would appreciate credit for the last three months in order to apply for retirement pay, enclosure (5).

g. Enclosure (2) provided an unfavorable advisory opinion stating that Petitioner failed to obtain the required points to have a satisfactory year to be eligible for retirement, and "Although [Petitioner] clearly served his country and the United States Navy with honor, he did not earn 20 years of qualifying service". Additionally, the advisory opinion added that he did not reenlist as a drilling reservist or a member of the Individual Ready Reserve (IRR) in order to meet the requirement of 20 years of qualifying service.

CONCLUSION:

Upon review and consideration of all the evidence of record, and despite the unfavorable advisory opinion, the Board concludes that Petitioner's request warrants favorable action. The Board believes that as an exception to policy, Petitioner should be entitled to a non-regular Reserve retirement due to serving his country honorably for 19 years, 8 months and 29 days. Accordingly, the Board concludes that the record should be corrected to show that Petitioner had a satisfactory year from 3 January 1970 through 2 January 1971, and was eligible for a non-regular Navy Reserve Retirement without pay on 1 October 1993 with 20 years of satisfactory service.

RECOMMENDATION:

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

a. Move 35 points from "3 April 1968 to 2 January 1970" to "3 January 1970 to 2 January 1971" for a good year, making it a qualifying year.

b. Effective 1 October 1993, Petitioner had 20 qualifying years of satisfactory service in the Navy Reserve and is eligible for a non-regular Navy Reserve retirement with pay at age 60.

c. Petitioner is entitled to any and all back pay and allowances for his retirement pay from the date he turned age 60 forward.

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.


DAVID J. CASH
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.


ROBERT J. O'NEILL
Executive Director

Reviewed and Approved:

12/19/14

~~Reviewed and Disapproved:~~


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