



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

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Docket No. 3090-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]
[REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DOD 7000.14-R FMR Volume 7A Chapter 26

Encl: (1) DD Form 149 w/attachments
(2) Advisory Opinion by NPPSC memo 7220/N1, 14 Dec 22
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (Board), requesting that his naval record be corrected to show Petitioner received Overseas Housing Allowance (OHA) and Cost of Living Allowance (COLA) for the period of March 2022 to May 2022 based on the [REDACTED] and COLA rate.

2. The Board, consisting of [REDACTED] reviewed Petitioner's allegations of error and injustice on 22 December 2022 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, relevant portions of Petitioner's naval record, 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. On 6 December 2019, Petitioner transferred from [REDACTED] and arrived to [REDACTED] on 13 December 2019 for duty.

c. On 30 December 2020, Petitioner transferred from [REDACTED] and arrived to [REDACTED] on 31 December 2020 for duty.

d. On 4 January 2021, Petitioner signed an Extension of Lease dated 7 January 2020 with a scheduled termination date of 30 June 2022 located at [REDACTED] for the amount of \$2,450.

e. On 4 January 2021, Petitioner certified an Individual OHA report (DD Form 2367) effective 9 January 2021. Petitioner was stationed in [REDACTED]. Petitioner's monthly rent was \$2,450 and Petitioner separately paid for some utilities and some were included in rental/lease agreement with landlord. Furthermore, the request was received by cognizant authority and approved effective 4 March 2021.

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f. In accordance with reference (b), retirement or separation from a Permanent Duty Station (PDS) outside the United States and establishes residence outside the United States, a service member at a PDS outside the United States, who is processing for retirement or separation or on leave after processing, and who intends to establish a residence in an OHA-based area after retirement or separation, is eligible for OHA. To be paid OHA under any of the circumstances listed, the Service member must provide a lease and a completed and approved 2367.

If the Service member continues to occupy private sector leased or owned housing at or in the PDS vicinity, OHA continues until the date of separation or retirement.

g. On 18 January 2022, Petitioner was issued official Fleet Reserve orders (BUPERS order: 0182) while stationed in [REDACTED] with an effective date of departure of March 2022. Petitioner's intermediate (1) activity was [REDACTED] for temporary duty pending separation with an effective date of arrival of 1 March 2022. Petitioner's place of home of election was [REDACTED] with an effective date of retirement 31 May 2022.

h. On 28 February 2022, Petitioner's Overseas COLA with 1 dependent and OHA at the with dependents rate for [REDACTED] stopped.

i. On 1 March 2022, Petitioner transferred from [REDACTED], and arrived to [REDACTED] on 2 March 2022 for temporary duty.

j. On 2 March 2022, Petitioner's BAH at the with-dependent rate for [REDACTED], started.

k. On 7 March 2022, Petitioner was issued a Temporary Additional Duty (TEMADD) Travel Orders (NAVPERS 1320/16) effective 14 March 2022 for 30 days to [REDACTED] for Permissive Temporary Duty (PTDY) Retirement. Estimated date of return was 12 April 2022.

l. On 7 March 2022, Petitioner submitted Leave Request/Authorization (NAVCOMPT Form 3065) requesting retirement leave from 00:01 13 April 2022 to 00:00 31 May 2022 at [REDACTED]. Petitioner's request was approved by cognizant authority on 8 March 2022.

m. Petitioner transferred to the Fleet Reserve with an Honorable character of service and was issued a Certificate of Release or Discharge from Active Duty (DD Form 214) for the period of 8 May 2002 to 31 May 2022 for having sufficient service for retirement. Furthermore, mailing address after separation was [REDACTED].

n. On 7 June 2022, Petitioner was charged with leave for the period of 13 April 2022 to 31 May 2022 (49 days).

o. On 29 July 2022, Navy Standard Integrated Personnel System (NSIPS)/ Electronic Service Record (ESR) form was printed, and Petitioner Dependency Application/Record of Emergency Data (NAVPERS 1070/602) continued to list the following spouse address: [REDACTED]

p. In the advisory opinion 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.

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[REDACTED]

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 corrective action. The Board concluded that in accordance with reference (b), a service member at a PDS outside the United States, who is processing for retirement or separation or on leave after processing, and who intends to establish a residence in an OHA-based area after retirement or separation, is eligible for OHA. Petitioner established a residence while stationed in [REDACTED] and was receiving OHA at the with dependent rate and Overseas COLA with 1 dependent. While TDY at [REDACTED] for the administrative out-processing for his retirement, his OHA was stopped and BAH at the with dependents rate was started. Petitioner took PTAD and retirement leave from 13 March 2022 to 31 May 2022 in [REDACTED] he retired, and still resided there as of 31 May 2022, according to the DD Form 214 and the NAVPERS 1070/602. Therefore, the Board determined that Petitioner was entitled to OHA at the with dependents rate and Overseas COLA with 1 dependent for the period of 1 March 2022 to 31 May 2022.

RECOMMENDATION

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

Petitioner was authorized Overseas COLA with 1 dependent and OHA at the with dependents rate for GU001 from 1 March 2022 to 31 May 2022.

Note: Defense Finance and Accounting Service (DFAS) will complete an audit of Petitioner's records to determine if Petitioner is due any back pay based on [REDACTED]. If Petitioner moved prior to retirement, he may have to resubmit a new DD Form 2367.

A copy of this Report of Proceedings will 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.

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 the reference, has been approved by the Board on behalf of the Secretary of the Navy.

1/9/2023

[REDACTED]

Deputy Director

[REDACTED]