



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

[REDACTED]
Docket No. 8540-22
Ref: Signature Date

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

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN, XXX-XX [REDACTED]

Ref: (a) Title 10 U.S.C. § 1552
(b) DoD 7000.14-R FMR Volume 7A, Chapter 68

Encl: (1) DD Form 149 w/attachments
(2) 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 establish Petitioner's authorization for dependent Cost of Living Allowance (COLA) "1" vice bachelor COLA "9" for JTR location [REDACTED] during the period of February 2018 to January 2021.

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 1 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 3 March 2017, Petitioner was issued official change duty orders (BUPERS order: [REDACTED] while stationed in [REDACTED] with an effective date of departure of March 2017. Petitioner's intermediate (1) activity was [REDACTED] for temporary duty under instruction with an effective date of arrival of 1 April 2017.

c. On 23 May 2017, Petitioner got married to [REDACTED].

d. On 4 June 2017, Petitioner signed a Dependency Application/Record of Emergency Data (NAVPERS 1070/602) and witnessed listing Petitioner's spouse's address at [REDACTED]

e. On 21 July 2017, Petitioner was issued official modification to change duty orders (BUPERS order: [REDACTED] while stationed in [REDACTED] with an effective date of departure of March 2017. Petitioner's intermediate (1) activity was [REDACTED] for temporary duty under instruction with an effective date of arrival of 29 April 2017. Petitioner's intermediate (2) activity was [REDACTED] for temporary duty with an effective date of arrival of 4 July 2017. Petitioner's intermediate (3) activity was [REDACTED] for temporary duty under instruction with an effective date of arrival of 9 August 2017.

Subj: REVIEW OF NAVAL RECORD OF ██████████, USN, XXX-XX-██████

f. On 31 August 2017, Petitioner was issued official modification to change duty orders (BUPERS order: ████████) while stationed in ██████████ with an effective date of departure of March 2017. Petitioner's intermediate (1) activity was ██████████ for temporary duty with an effective date of arrival of 30 March 2017. Petitioner's intermediate (2) activity was ██████████ for temporary duty under instruction with an effective date of arrival of 1 May 2017.

Petitioner's intermediate (3) activity was ██████████ for temporary duty with an effective date of arrival of 4 July 2017. Petitioner's intermediate (4) activity was ██████████ for temporary duty under instruction with an effective date of arrival of 9 August 2017. Petitioner's ultimate activity was ██████████ for duty with an effective date of arrival of 10 November 2017, with a Projected Rotation Date (PRD) of May 2025. The orders do not contain travel authorization for Petitioner's spouse; however, the orders do not specify that his assignment was dependent restricted.

g. On 27 November 2017, Petitioner transferred from ██████████, and arrived to ██████████ on 2 December 2017 for duty. Furthermore, Petitioner was authorized BAH at the with dependents rate for ██████████ and Outside the Continental United States (OCONUS) COLA with 0 dependent for ██████████) effective 2 December 2017.

h. On 5 May 2019, Petitioner signed a Dependency Application/Record of Emergency Data (NAVPERS 1070/602) and witnessed listing the following: "NAVPERS 1070/602 updated to change address information for: from: ██████████ to: ██████████ change COLA from "9" to "1" effective 3 April 2018. Flight itinerary cited on 30 April 2018.

i. On 20 December 2021, Petitioner was authorized OCONUS COLA with 1 dependent for ██████████) effective 1 February 2021 to 4 January 2022.

j. On 5 January 2022, Petitioner transferred from ██████████, and arrived to ██████████ on 4 February 2022 for temporary duty. Furthermore, Petitioner was authorized BAH at the with dependents rate for ██████████) effective 4 February 2022.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of reference (b)¹ and enclosure (2), the Board finds the existence of an injustice warranting the following partial corrective action. The Board concluded that BUPERS Order ████████ did not contain travel authorization for Petitioner's spouse even though Petitioner married his spouse 3 months prior to the issuance of orders. Petitioner's spouse arrived to ██████████ on 3 April 2018. Petitioner's OCONUS COLA with one dependent was started on 20 December 2021 only for the period of 1 February 2021 to 4 January 2022. Petitioner's request for OCONUS COLA with one dependent is only authorized beginning on 3 April 2018, the date Petitioner's spouse arrived to ██████████, vice his requested date of February 2018.

¹ Reference (b), OCONUS COLA is a nontaxable allowance that offsets the higher prices of goods and services, excluding housing, in foreign countries, U.S. territories, ██████████ a, and ██████████.

A Service member is considered with-dependent if any of the following criteria apply: The Service member is authorized to have a dependent reside at or in the vicinity of the Service member's Permanent Duty Station (PDS) OCONUS and the dependent resides there; The Service member is joined by a dependent or acquires a dependent while serving OCONUS and the dependent is one of the following: Command sponsored and residing with a Service member at an OCONUS location at which an "accompanied by dependents" tour is authorized, the Service member is authorized to serve that tour, and the dependents are authorized by the appropriate authority to be at the Service member's PDS.

Subj: REVIEW OF NAVAL RECORD OF [REDACTED], USN, XXX-XX-[REDACTED]

RECOMMENDATION

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

Petitioner was authorized OCONUS COLA with 1 dependent for [REDACTED] from 3 April 2018 to 31 January 2021.

Note: Defense Finance & Accounting Service (DFAS) will complete an audit of Petitioner's records to determine if Petitioner is due any back pay.

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

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.

12/5/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]