



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

[REDACTED]
Docket No. 8796-22
Ref: Signature Date

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

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

Ref: (a) Title 10 U.S.C. § 1552

Encl: (1) DD Form 149
(2) Memo 6000 SER 242/766 COMNAVMILPERSCOM, 20 Jul 89
(3) Memo 6000 SER 242/127 COMVAVMILPERSCOM, 7 Aug 89

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 by showing that he served 20 years on active duty in order to be eligible for concurrent retirement and disability pay (CRDP).

2. The Board, consisting of [REDACTED], [REDACTED], and [REDACTED] reviewed Petitioner's allegations of error and injustice on 20 April 2023, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record.

3. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. Although Petitioner's application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider the case on its merits. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. In June 1988, the Petitioner who had approximately 18 years and 6 months of active duty service was referred to Naval Hospital, [REDACTED], [REDACTED] after discovery of a heart condition. Petitioner was diagnosed with Atherosclerotic coronary artery disease. Petitioner underwent several medical procedures and underwent a third medical board on 4 May 1989 which noted that Petitioner was working a routine 40 hour work week performing predominantly administrative duties without difficulty. The Medical Evaluation Board (MEB) referred Petitioner to the Physical Evaluation Board (PEB) for his diagnosed Atherosclerotic coronary artery disease, status post recent anterior Wall myocardial infraction, status post coronary artery bypass grafting, and Hypercholesterolemia. The MEB recommended that the Petitioner be considered for a limited duty status to complete 20 years of active service.

b. On 27 June 1989, the Petitioner accepted the Physical Evaluation Board (PEB) findings that Petitioner was unfit because of a physical disability ratable at 30% and recommended that Petitioner be placed in a limited duty status to achieve 20 years of active service. On 7 August

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1989, the Naval Military Personnel Command (NMPC) notified the President, PEB that the request for Petitioner's retention in a limited duty assignment in order to complete 20 years of active service was approved. See enclosure (2). Subsequently, NMPC notified the Officer in Charge of Personnel Support Activity Detachment Naval Station [REDACTED], [REDACTED] that, on 25 July 1989, the Secretary of the Navy directed no action to be taken on the recommended finding of the PEB, placement on the retired list, pending Petitioner's completion of twenty years of service. See enclosure (3). The memorandum also directed that the Petitioner be assigned a limited duty designator and authorized the Petitioner to extend or reenlist in order to acquire the obligated service to complete twenty years of active service (day for day).

c. On 1 July 1990, Petitioner's extension of service was extended for five months, until 14 October 1990, in order for Petitioner to achieve his twenty years of service. Petitioner was separated on 14 October 1990 and transferred to the Permanent Disability Retired List on 15 October 1990. On 15 August 2022, Defense Finance and Accounting Service (DFAS) notified Petitioner that he was not entitled to CRDP because he did not have twenty years of active service.

d. Petitioner claims that in June 2022 the VA increased his rating for his unfitting condition from 30% to 100%. A service member is entitled to CRDP if they have twenty years of active service. Based on Petitioner's last DD Form 214, Petitioner served approximately 19 years, 11 months, and 12 days.

CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an error and injustice warranting relief. Specifically, the Board determined that the Petitioner was found unfit by the PEB and that Secretary of the Navy authorized Petitioner to stay in a permanent limited duty status in order to achieve 20 years of service. The Board noted that Petitioner was also extended on active duty for the specific purpose of achieving twenty years of service. The Board found that the administration personnel at [REDACTED] made an error in calculating Petitioner's active duty service and transferred Petitioner to PDRL approximately 19 days before he reached twenty years of service. As a result of that error, the Board determined Petitioner is unjustly prevented from being eligible for CRDP.

RECOMMENDATION

In view of the above, the Board directs the following corrective action:

That Petitioner's Naval record be corrected to show that he achieved exactly 20 years of active service before being placed on the PDRL. Petitioner shall be granted the necessary service credit to allow him to reach 20 years of active duty service. Navy Personnel Command will issue a DD Form 215 or a new DD Form 214, whichever one they deem appropriate, that reflects the recommended corrective action.

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

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That no further changes be made to Petitioner's naval record.

That a copy of this report of proceedings 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 Regulation, 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.

5/12/2023

[REDACTED]

Deputy Director
Signed by: [REDACTED]