

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2020-02930

XXXXXXXXXX

COUNSEL: NONE

HEARING REQUESTED: NOT INDICATED

APPLICANT'S REQUEST

His record be corrected to recompute his retirement pay in accordance with the Temporary Early Retirement Authority (TERA).

APPLICANT'S CONTENTIONS

He retired under TERA and the program allowed credit towards military retirement for public or community service to begin at age 62. He served in the Troops to Teachers (TTT) program and met the service requirement to receive military credit and documented his work with Dantes Activity for Non-Traditional Education Support (DANTES) TTT. He turned 62 last year and realized he wasn't getting credit for the TTT service. After reviewing his discharge papers, he realized a specific form was to be sent to another military agency affiliated with military service. He is now requesting the error in his military record and associated pay be corrected.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired Air Force master sergeant (E-7).

On 1 Feb 94, according to AF Form 1160, *Military Retirement Actions*, Section IV, Remarks, the applicant acknowledged "I understand that I must register on the Public and Community Service Registry at the FSC and that my retirement cannot be consummated until my registration has been confirmed."

On 30 Sep 94, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant was separated from active duty for the purpose of retirement. Item 18, Remarks, states "Member is retiring by Section 4403 of the FY93 National Defense Authorization Act (PL 102-484) and May Qualify for a Recomputation of Retirement of Retired Pay at Age 62 Pursuant to Section 4464 of the Same Law." Special Orders No. Work-Product indicates he was credited with 19 years, 2 months and 16 days of service for basic pay.

For more information, see the excerpt of the applicant's record at Exhibit B and the advisory at Exhibit C.

AIR FORCE EVALUATION

HQ AFPC/DP2SSR recommends denying the application. In the National Defense Authorization Act for Fiscal Year 1993 (FY93 NDAA), Public Law (PL) 102-484, 23 Oct 1992, Congress enacted the Temporary Early Retirement Authority (TERA), which permitted selected military members to retire early. Section 534 of that law gave the Secretary of Defense authority to allow the Service Secretaries to permit early retirement for selected military members having more than 15 but less than 20 year of active service. Public Law 107-314, *National Defense Authorization Act for Fiscal Year 2003*, Section 554, extended TERA to 1 Sep 2002 at which time that TERA authority expired.

Section 4464 of the FY93 NDAA allowed eligible members retired under TERA to perform public and community service (PACS) following retirement and receive credit for this service to be used to recompute military retired pay, and where applicable, the Survivor Benefit Plan (SBP) base amount when the retired member attains or would have attained 62 years of age. Public and community service job vacancies included education, conservation, environmental protection, law enforcement, and public health care positions.

Program management was established and announced to the Services through the Assistant Secretary of Defense (ASD) Memorandum, *Active Duty Early Retirement Policy Guidance*, dated 12 Mar 1993, and the ASD Memorandum, *Implementing Procedures for Temporary Early Retirement Authority (TERA) Programs*, dated 22 Apr 1993. The Air Force also provided specific instructions to the field through a Military Personnel Flight Letter (MPFL) 93-024, *Voluntary Early Retirement Program*, dated 9 April 1993. The Department of Defense (DOD) also provided specific information on obtaining public and community service credit through the DoD Instruction 1340.19, *Certification of Public and Community Service Employment of Military Retirees*, dated November 17, 1993.

The applicant retired effective 1 October 1994 under the TERA authority, with 19 years, 2 months, and 16 days of total active federal military service (TAFMS). The NDAA required members retiring under TERA to register in advance of the projected retirement date on the Public and Community Service Registry maintained under 10 USC Section 1143a. The law allows no provision to retroactively register for employment in public or community service organizations. Applicants were required to turn in proof of public or community service to the Defense Manpower Data Collection (DMDC) team no later than one year after they would have attained 20 years Total Active Federal Military Service (TAFMS) had they been continuously on active duty. This date is referred to as the individual's Enhanced Retirement Qualification Period (ERQP). The applicant retired 1 October 1994 with 19 years, 2 months, and 16 days of active service, therefore, any creditable service must have been completed prior to 2 October 1995 (the end of his ERQP). Based on the reporting instructions established by the DMDC, the applicant was required to submit record of the creditable service within a year of that point (or 2 October 1996).

The DMDC does not have any record that the applicant applied for PACS. Had the applicant properly registered within the allotted time period and provided the required documentation, he would have been eligible to receive credit for the time served under the PACS program.

The complete advisory opinion is at Exhibit C.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent a copy of the advisory opinion to the applicant on 19 Nov 20 for comment (Exhibit D), but has received no response.

FINDINGS AND CONCLUSION

1. The application was timely filed.

2. The applicant exhausted all available non-judicial relief before applying to the Board.
3. After reviewing all Exhibits, the Board concludes the applicant is not the victim of an error or injustice. The Board concurs with the rationale and recommendation of AFPC/DP2SSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. Therefore, the Board recommends against correcting the applicant's records.
4. The applicant has not shown a personal appearance, with or without counsel, would materially add to the Board's understanding of the issues involved.

RECOMMENDATION

The Board recommends informing the applicant the evidence did not demonstrate material error or injustice, and the Board will reconsider the application only upon receipt of relevant evidence not already presented.

CERTIFICATION

The following quorum of the Board, as defined in Air Force Instruction (AFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*, paragraph 1.5, considered Docket Number BC-2020-02930 in Executive Session on 20 Jul 21:

- , Panel Chair, AFBCMR
- , Panel Member
- , Panel Member

All members voted against correcting the record. The panel considered the following:

- Exhibit A: Application, DD Form 149, w/atchs, dated 16 Jul 20.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, AFPC/DP2SSR, w/atchs, dated 17 Nov 20.
- Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 19 Nov 20.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by AFI 36-2603, paragraph 4.11.9.