

## RECORD OF PROCEEDINGS

**IN THE MATTER OF:**

**DOCKET NUMBER:** BC-2021-01222

XXXXXXXXXXXXXXXXXX

**COUNSEL:** NONE

**HEARING REQUESTED:** NOT INDICATED

### APPLICANT'S REQUEST

Her retired pay be adjusted at age 62 under the Temporary Early Retirement Authority (TERA) program.

### APPLICANT'S CONTENTIONS

She retired under TERA with 17 years and 9 months of active service. She was advised at that time that at age 62, her retirement pay would increase and the 2.5 percent penalty for early retirement would be removed. She reached age 62 in XXXXXXXXXXXXX.

The applicant's complete submission is at Exhibit A.

### STATEMENT OF FACTS

The applicant is a retired Air Force technical sergeant (E-6).

On 27 January 1994, 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 Family Services Support Center and that my retirement cannot be consummated until my registration has been confirmed."

On 31 May 1995, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, she was released from active duty for the purpose of retirement. Item 18, *Remarks*, reflects "*Member is retiring as provided by Section 4403 of the FY93 National Defense Authorization Act (PL 102-484) and may qualify for a recomputation of retired pay at age 62 pursuant to Section 4464 of the same law.*" She was credited with 17 years, 9 months, and 13 days of active service.

On 1 June 1995, according to Special Order XX-XXXXXX, dated 12 February 1994, the applicant retired.

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

### AIR FORCE EVALUATION

AFPC/DPSSR recommends denying the application. Congress enacted the TERA program pursuant to the FY93 National Defense Authorization Act (NDAA), which permitted selected military members to retire with at least 15, but less than 20 years of active military service. 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 base amount when the retired member attains or would have attained 62 years of age.

The FY93 NDAA required members retiring under TERA to register in advance of the projected retirement date on the PACS Registry maintained under Title 10 United States Code, Section

1143a. The law allows no provision to retroactively register for employment in PACS organizations.

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 March 1993, and the ASD Memorandum, *Implementing Procedures for Temporary Early Retirement Authority (TERA) Programs*, dated 22 April 1993. The Department of Defense also provided specific information on obtaining PACS credit through DoD Instruction 1340.19, *Certification of Public and Community Service Employment of Military Retirees*, dated 17 November 1993.

Members were required to turn in proof of PACS to the Defense Manpower Data Center (DMDC) team no later than one year after they would have attained 20 years Total Active Federal Military Service had they been continuously on active duty. This date is referred to as the individual's Enhanced Retirement Qualification Period (ERQP). The applicant retired on 1 June 1995 and was credited with 17 years, 9 months, and 13 days of active service; therefore, any creditable service must have been completed prior to 17 August 1997 (the end of her ERQP). Based on reporting instructions established by the DMDC, the applicant was required to submit record of creditable service within one year of that point (17 August 1998). The DMDC does not have any record of the applicant's registration or completion of PACS during her ERQP. The law allows no provision to retroactively register for employment with PACS organizations.

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 1 February 2022 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. The applicant provided no evidence that she registered for the PACS program prior to retirement, that she completed the required public or community service, or that she provided the required proof of service to DMDC within the established timeframe. 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-2021-01222 in Executive Session on 6 April 2022:

, 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 21 October 2020.  
Exhibit B: Documentary evidence, including relevant excerpts from official records.  
Exhibit C: Advisory Opinion, AFPC/DP2SSR, dated 8 July 2021.  
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 1 February 2022.

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.

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Board Operations Manager, AFBCMR