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UNITED STATES AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02572

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COUNSEL: NONE

HEARING REQUESTED: NO

APPLICANT'S REQUEST

Her official military personnel records be amended to reflect:

- a. Full credit for retirement pay for all points earned while serving with the Air National Guard.
- b. Promotion to the retired grade of master sergeant (E-7). **(Outside Secretary of the Air Force authority)**

APPLICANT'S CONTENTIONS

She is requesting full credit for retirement pay on all her points earned while serving in the Air National Guard. When she contacted a representative from myPERS, they were not able to help her and recommended she complete a DD Form 149, *Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552*. The representative said because of her years of service, she was not eligible for credit of all her points. She earned these points and because retirement pay is based on the amount of points you have, she is losing pay because she is not getting credit for them. Those serving today get credit for all points they earn, and she does not feel she should be penalized because she served at a different time. She should get the same consideration as those serving today.

She is also requesting the pay equivalent of an E-7 grade due to not being able to obtain it while she was still serving due to no slots being available in her career field. At the time of her retirement, she was eligible to be promoted, but because of not being able to find a slot in her career field, she was not able to get a promotion. She had completed her Noncommissioned Officer Academy (NCOA), had time in grade, and excellent evaluations. She is losing over \$300.00 in pay per month for not being able to promote to E-7.

She served honorably in the United States Air Force, 4 years on active duty, and 16 years in the Air National Guard, with 2 additional years on active duty. She is not asking for anything she feels she is not entitled to or earned while she was serving.

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

The applicant is a retired [State] Air National Guard (ANG) technical sergeant (E-6).

On 28 May 04, ARPC/DPPR sent the applicant the standard Notification of Eligibility for retired pay (20-year letter) informing her that she has completed the required years under the provisions

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of Title 10, United States Code, Section 12731 (10 USC § 12731) and entitled to retired pay upon application prior to age 60.

On 2 Apr 05, according to AF Form 131, *Application for Transfer to the Retired Reserve*, the applicant requested transfer to the Retired Reserve, effective 18 Jun 05.

On 16 Jun 05, according to Special Order (ANG) [REDACTED], dated 13 Apr 05, the applicant was honorably discharged from the [State] Air National Guard, in the grade of technical sergeant (E-6), and transferred to the Air Force Reserve, Headquarters, Air Reserve Personnel Center, effective 17 Jun 05. Applicant applied for transfer to the Retired Reserve, effective 18 Jun 05.

On 16 Jun 05, the applicant was furnished an honorable discharge, in the grade of technical sergeant (E-6), with Authority and Reason of AFI 36-3209, 3.12.6., Retirement, and credited with 22 years, and 21 days total service for retired pay.

On 18 Jun 05, according to Reserve Order [REDACTED] dated 16 May 05, the applicant was relieved from current assignment, assigned to the Retired Reserve Section, and placed on the USAF Reserve Retired List.

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

APPLICABLE AUTHORITY/GUIDANCE

In accordance with Department of the Air Force Instruction (DAFI) 36-2502, *Enlisted Airman Promotion and Demotion Programs*, Chapter 10, *Air National Guard (ANG) Promotion Program*:

10.1. General Promotion Information and Eligibility Criteria.

10.1.1. Program Objectives.

10.1.1.1. The fact a member meets each of the eligibility criteria outlined in this instruction does not automatically guarantee promotion to the next higher grade. Meeting minimum eligibility criteria only indicates that a member can be considered eligible for promotion. Promotion is not a reward for past performance, but recognition of the member's potential to successfully serve in the higher grade.

10.1.1.4. Each promotion to TSgt and above must be considered in light of its impact on the unit and state force management plans in addition to the immediate and long-range potential of the member to serve in the higher grade.

10.1.2. Authority.

10.1.2.1. The authority to promote ANG Airmen as Reserves of the Air Force is delegated to The Adjutant General (TAG) or CG of the state, district, or territory in accordance with policies and procedures established by this instruction.

10.1.2.1.1. TAG or CG retains the authority to approve promotions to the grades of MSgt, SMSgt, and CMSgt.

AIR FORCE EVALUATION

NGB/A1PP recommends denying the application. Based on the documentation provided by the applicant and analysis of the facts, there is no evidence of an error or injustice.

The advisor reviewed the documents and found them insufficient to substantiate the applicant's claim she did not receive credit for all points earned. Furthermore, she contended completion of the NCOA should have resulted in promotion to E-7 even though there were no available slots to

promote in her career field. After review of DAFI 36-2502, paragraph 10.1.1.1., promotion is a Commander's program and meeting eligibility requirements does not automatically guarantee promotion to the next higher grade.

The complete advisory opinion is at Exhibit C.

ARPC/DPTSP recommends denying the application. Based on the documentation provided by the applicant, and analysis of the facts, there is no evidence of an error or injustice. The applicant was credited for all retirement points earned in accordance with established guidance.

The Points Management Team researched the applicant's master personnel records. The applicant's points summary shows the years 3 Mar 88 – 2 Mar 90, 3 Mar 92 – 2 Mar 96, and 3 Mar 03 – 2 Mar 05 are affected by the point credit limitation set forth in Department of Defense Instruction (DoDI) 1215.07, *Service Credit for Non-Regular Retirement*. According to DoDI 1215.07, section 3.4., paragraph f, "Retirement points credited for activities other than active service or funeral honors duty may not exceed: Sixty retirement points for any one anniversary year closing before September 23, 1996. Seventy-five retirement points for anniversary years closing on or after September 23, 1996, but before October 30, 2000... Award a maximum of 365 retirement points (366 retirement points in a leap year) in any anniversary year." Therefore, the applicant cannot be awarded more than what is authorized and has received full credit towards retirement pay.

The complete advisory opinion is at Exhibit D.

APPLICANT'S REVIEW OF AIR FORCE EVALUATION

The Board sent copies of the advisory opinions to the applicant on 19 Mar 24 for comment (Exhibit E) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not 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 rationales and recommendations of NGB/A1PP and ARPC/DPTSP and finds a preponderance of the evidence does not substantiate the applicant's contentions. In accordance with DAFI 36-2502, promotion is a Commander's program and meeting eligibility requirements does not automatically guarantee promotion to the next higher grade. Additionally, the applicant was credited with the maximum points authorized in accordance with DoDI 1215.07. The Board also notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by 10 USC § 1552 and DAFI 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*. While the applicant asserts a date of discovery within the three-year limit, the Board does not find the assertion supported by a preponderance of the evidence. The Board does not find it in the interest of justice to waive the three-year filing requirement and finds the application untimely.

RECOMMENDATION

The Board recommends informing the applicant the application was not timely filed; it would not be in the interest of justice to excuse the delay; 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 DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2023-02572 in Executive Session on 23 May 24 and 30 May 24:

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Panel Chair
, 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 22 Jul 23.
- Exhibit B: Documentary evidence, including relevant excerpts from official records.
- Exhibit C: Advisory Opinion, NGB/A1PP, dated 2 Feb 24.
- Exhibit D: Advisory Opinion, ARPC/DPTSP, w/atchs, dated 14 Mar 24.
- Exhibit E: Notification of Advisory, SAF/MRBC to Applicant, dated 19 Mar 24.

Taken together with all Exhibits, this document constitutes the true and complete Record of Proceedings, as required by DAFI 36-2603, paragraph 4.12.9.

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