

RECORD OF PROCEEDINGS

IN THE MATTER OF:

DOCKET NUMBER: BC-2023-02932

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

Her DD Form 214, *Certificate of Release or Discharge from Active Duty*, states she may qualify for recomputation of retired pay at age 62. In support of her request, she provides supporting documentation as proof that she worked in the Department of Veterans Affairs from October 2010 until August 2017 as a medical supply technician and prosthetics purchasing agent. Her duties were similar to those performed while on active duty

The applicant's complete submission is at Exhibit A.

STATEMENT OF FACTS

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

On 28 December 1977, according to DD Form 214, *Certificate of Release or Discharge from Active Duty*, the applicant entered active duty in the Regular Air Force. On 30 June 1994, 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 16 years, 6 months, and 3 days of active service.

On 1 July 1994, according to Special Order XX-XXXXXX, dated 13 June 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/DPMSSR (Military Retirements) recommends denying the application. Congress enacted the TERA program pursuant to the Fiscal Year 1993 (FY93) National Defense Authorization Act (NDAA), Public Law (PL) 102-484, dated 23 October 1992, which permitted selected military members to retire with at least 15, but less than 20 years of active 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. PACS job positions included education, conservation, environmental protection, law enforcement, and public health care positions. The FY93 NDAA required members retiring under TERA to register in advance

of the projected retirement date on the Public and Community Service Registry maintained under Title 10 United States Code, Section 1143a.

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 Air Force provided specific instructions to the field through Military Personnel Flight Letter 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 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) (28 December 1997). The applicant retired on 1 July 1994 with 16 years, 6 months, and 3 days of active service. Based on the reporting instructions established by the DMDC, the applicant was required to submit record of the creditable service within one year of the ERQP (28 December 1998). The DMDC does not have any record of the applicant's registration or completion of PACS. Had the applicant properly registered within the allotted period and provided the required documentation, she would have been eligible to receive credit for 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 22 April 2024 for comment (Exhibit D) but has received no response.

FINDINGS AND CONCLUSION

1. The application was not timely filed. The Board notes the applicant did not file the application within three years of discovering the alleged error or injustice, as required by Section 1552 of Title 10, United States Code, and Department of the Air Force Instruction (DAFI) 36-2603, *Air Force Board for Correction of Military Records (AFBCMR)*.
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/DPMSSR and finds a preponderance of the evidence does not substantiate the applicant's contentions. The applicant provided no evidence she registered for the PACS program prior to retirement, that she completed the required public or community service within the allotted period, 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 DAFI 36-2603, paragraph 2.1, considered Docket Number BC-2023-02932 in Executive Session on 19 July 2024:

, 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 23 August 2023.
Exhibit B: Documentary evidence, including relevant excerpts from official records.
Exhibit C: Advisory Opinion, AFPC/DPMSSR, dated 22 April 2024.
Exhibit D: Notification of Advisory, SAF/MRBC to Applicant, dated 22 April 2024.

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.

X

Board Operations Manager, AFBCMR