

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 January 2024

DOCKET NUMBER: AR20230005468

APPLICANT REQUESTS: reconsideration of his previous request for promotion to the rank/grade of sergeant first class (SFC)/E-7 upon medical retirement in August 1984. A personal appearance before the Board via video or telephone.

APPLICANT'S SUPPORTING DOCUMENT(S) CONSIDERED BY THE BOARD:

- DD Form 149 (Application for Correction of Military Record)
- DA Form 2166-6 (Enlisted Evaluation Report), covering February 1982 - January 1983
- DA Form 2166-6, covering February – November 1983
- Enlisted Evaluation Data Report (illegible)
- Previous DD Form 149

FACTS:

1. Incorporated herein by reference are military records which were summarized in the previous consideration of the applicant's case by the Army Board for Correction of Military Records (ABCMR) in Docket Number AC86-05607 on 27 January 1988.
2. The applicant states in pertinent part, his promotion packet was supposed to go before the SFC promotion board in the fall of 1982. However, due to an error that was out of his control, it was not submitted until the promotion board for the fall of 1983, to which he was selected and would have been promoted in August of 1984. He was medically retired only weeks before he would have received his promotion to SFC had it not been for the error that occurred through no fault of his own.
3. A review of the applicant's available service record reflects the following:
 - a. His record is void of the initial enlistment DD Form 4 (Enlistment Contract – Armed Forces of the United States).
 - b. On 30 December 1974, he reenlisted in the Regular Army at the rank of private (PV2)/E-2. Item 49 (Prior Service) shows service in the Regular Army from 11 July 1967 to 5 July 1970 with honorable discharge at the rank/grade of sergeant (SGT)/E-5.

c. On 21 October 1977, the United States Army Regional Personnel Center, Karlsruhe issued Orders Number 294-22 discharging him from the Regular Army, effective 24 October 1977, with immediate reenlistment in the Regular Army, effective 25 October 1977, with the 93rd Engineer Company for a period of 6 years.

d. On 25 October 1977, he reenlisted in the Regular Army at the rank/grade of SGT/E-5 for a period of 6 years.

e. DA Form 2-1 (Personnel Qualification Record – Part II), Item 18 (Appointments and Reductions shows he was promoted to the rank of staff sergeant (SSG)/E-6, effective 15 December 1978. Item 27 (Remarks) shows a copy of his personnel qualification record was forwarded to the SFC promotion board on 12 July 1983.

f. His record is void of the DA Form 199 (Informal Physical Evaluation Board Proceedings).

g. On 19 July 1984, the U.S. Army Military Personnel Center issued a Memorandum, Subject: Disability Retirement and Orders Number D131-24 relieving him from assignment and duty because of physical disability incurred while entitled to basic pay and under conditions which permit his retirement for permanent physical disability. His effective date of retirement shows 16 August 1984, with 30 percent disability at the rank/grade of SSG/E-6.

h. On 24 July 1984, Headquarters, Medical Department Activity, Fort Riley, KS, issued Orders Number 128-2 reassigning him to the United States Army Garrison Transfer Point for transition processing for medical retirement with a 30 percent disability rating, in the rank of SSG.

i. DD Form 214 (Certificate of Release or Discharge from Active Duty), ending 16 August 1984 reflects an honorable retirement for permanent physical disability. Item 4a (Grade, Rate or Rank) shows "SSG." Item 12 (Record of Service) shows service from 25 October 1977 to 16 August 1984 for a net active service this period of 6 years, 9 months, and 22 days with total prior service of 5 years, 9 months, and 20 days.

j. ABCMR Docket Number AC86-05607, decided on 27 January 1988, wherein the applicant requested promotion to the rank/grade of SFC/E-7 upon medical retirement. The Board determination denied his request stating, "the applicant failed to submit sufficient evidence to demonstrate the existence of probable material error or injustice."

4. The applicant provides the following:

a. DA Form 2166-6 covering February 1982 – January 1983, showing he was rated ahead of his peers in the rank of SSG and was ready to take on responsibility at the next level of leadership, Platoon Sergeant.

b. DA Form 2166-6, covering February – November 1983, showing his evaluation for this period in the rank of SSG.

c. Enlisted Evaluation Data Report (illegible) document submitted as unspecified supporting evidence for reconsideration of his request for promotion to SFC/E-7.

BOARD DISCUSSION:

1. The applicant's request for a personal appearance hearing was carefully considered. In this case, the evidence of record was sufficient to render a fair and equitable decision. As a result, a personal appearance hearing is not necessary to serve the interest of equity and justice in this case.

2. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was not warranted. The Board carefully considered the applicant's contentions, the military record, regulatory guidance and applicable U.S. Code. The Board carefully reviewed the applicant's previous request for consideration. The Board found insufficient documentation within the applicant's record and the applicant did not provide any new documentation for consideration of his request by the Board. After due consideration of the case, the Board determined the evidence presented insufficient to warrant a recommendation for relief and correction to his record is not warranted.

BOARD VOTE:

<u>Mbr 1</u>	<u>Mbr 2</u>	<u>Mbr 3</u>	
:	:	:	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
████	████	████	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented does not demonstrate the existence of a probable error or injustice. Therefore, the Board determined the overall merits of this case are insufficient as a basis to amend the decision of the Army Board for Correction of Military Records set forth in Docket Number AC86-05607 on 27 January 1988.



I certify that herein is recorded the true and complete record of the proceedings of the Army Board for Correction of Military Records in this case.

REFERENCES:

1. Army Regulation (AR) 600-200 (Enlisted Personnel Management System), in effect at the time shows:

(1) Paragraph 7-6, provided that a soldier was in a non-promotable status if he was ineligible for reenlistment under the provisions of AR 601-280.

(2) Paragraph 7-42, provided that a promotion was not valid and would be revoked if the soldier was not in a promotable status on the effective date.

2. AR 601-280 (Army Reenlistment Program), paragraph 2-15a, in effect at the time, provided that a soldier had to meet retention medical fitness standards or been found fit for duty by a Physical Evaluation Board in order to be eligible to reenlist.

3. Title 10, United States Code, section 1372 states, unless entitled to a higher retired grade under some other provision of law, any member of an armed force who is retired for physical disability under section 1201 or 1204 of this title, or whose name is placed on the temporary disability retired list under section 1202 or 1205 of this title, is entitled to the grade equivalent to the highest of the following:

- The grade or rank in which he is serving on the date when his name is placed on the temporary disability retired list or, if his name was not carried on that list, on the date when he is retired
- The highest temporary grade or rank in which he served satisfactorily, as determined by the Secretary of the armed force from which he is retired
- The permanent regular or reserve grade to which he would have been promoted had it not been for the physical disability for which he is retired and which was found to exist as a result of a physical examination
- The temporary grade to which he would have been promoted had it not been for the physical disability for which he is retired, if eligibility for that promotion was required to be based on cumulative years of service or years of service in grade and the disability was discovered as a result of a physical examination

4. AR 15-185 (Army Board for Correction of Military Records (ABCMR)) prescribes the policies and procedures for correction of military records by the Secretary of the Army, acting through the ABCMR. The ABCMR may, in its discretion, hold a hearing or request additional evidence or opinions. Additionally, it states in paragraph 2-11 that applicants do not have a right to a hearing before the ABCMR. The Director or the ABCMR may grant a formal hearing whenever justice requires.

//NOTHING FOLLOWS//