

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 5 March 2024

DOCKET NUMBER: AR20230005722

APPLICANT REQUESTS: in effect, an exception to policy for payment of Continuation Pay (CP) under the provisions of the Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- Applicant's Years of Service and Pay Entry Base Date (PEBD) case referred to Defense Finance and Accounting Service (DFAS) with supporting documents
- DD Form 4 (Enlistment/Reenlistment Document - Armed Forces of the United States), 14 August 2006
- DD Forms 214 (Certificate of Release or Discharge from Active Duty), 30 August 2007 and 11 April 2019
- Multiple Orders for Full Time National Guard Duty - Operational Support (FTNGD-OS) and Active Duty Training (ADT)
- DA Form 4836 (Oath of Extension of Enlistment or Reenlistment), 15 April 2012
- National Guard Bureau (NGB) Form 22 (Report of Separation and Record of Service), 13 August 2014
- NGB Form 23B (Army National Guard (ARNG) Retirement Points History Statement), 19 August 2014
- DA Forms 71 (Oath of Office - Military Personnel), 8 April 2018 and 23 October 2019
- Orders Number C-04-804797, 19 April 2018
- Orders Number 031948, 10 May 2019
- DA Form 5016 (Chronological Statement of Retirement Points), 12 March 2020 and 28 March 2023
- DA Form 1506 (Statement of Service - For Computation of Length of Service for Pay Purposes), 13 March 2020
- Thrift Savings Plan (TSP) savings account balance history screenshot, 21 February 2023
- Request for CP BRS, 4 May 2023

FACTS:

1. The applicant states when he in-processed to Fort Drum in October of 2019, his retirement plan was changed back to the legacy retirement plan. Having been removed from the BRS, he has not received matching contributions to his TSP, and he has not received CP. He was in the BRS from April 2018 to October 2019. An error in the Fort Drum Pay Office resulted in him losing benefits that he would like restored.

2. A review of the applicant's official records show the following:

a. He enlisted in the Illinois ARNG on 14 August 2006.

b. On 15 April 2012, DA Form 4836 shows he extended in the ARNG for 2 years, which changed his expiration term of service to 13 August 2014.

c. On 13 August 2014, NGB Form 22 shows he was honorably discharged from the ARNG. Item 10(d) (Total Service for Pay) shows 8 years.

d. After a break in service, DA Form 71 shows he was appointed as a Reserve commissioned officer and executed an oath of office on 8 April 2018.

e. On 19 April 2018, the U.S. Army Human Resources Command (HRC) published Orders Number C-04-804797, which reassigned the applicant in the Reserve for appointment and assigned him to his U.S. Army Reserve (USAR) unit, effective 8 April 2018.

f. On 4 September 2019, HRC published Order Number 904-247-CH-1-1, which appointed the applicant in the Regular Army Chaplain Corps in the rank/grade of first lieutenant (1LT)/O-2, effective on the execution of the oath of office.

g. DA Form 71 shows he executed an oath of office and was appointed as a 1LT in the Regular Army Chaplain Corps on 23 October 2019.

h. Orders Number 281-006 published by HRC promoted the applicant to the rank/grade of captain (CPT)/O-3 with an effective date of rank of 28 September 2020.

i. The applicant completed 12 years of service on 8 April 2022.

3. In support of his case, the applicant provides:

a. A copy of his Years of Service and PEBD case referred to DFAS for an update of his record. The case contained multiple Orders for FTNGD-OS and ADT.

b. DD Form 4 showing he enlisted in the ARNG on 14 August 2006.

c. DD Forms 214 dated 30 August 2007 and 11 April 2019, which show periods of active duty while serving in the ARNG and USAR.

d. NGB Form 23B dated 19 August 2014, which shows in pertinent part, he earned 8 years creditable service for Retired pay.

e. DA Forms 5016 dated 12 March 2020 and 28 March 2023, which show in pertinent part, he had a break in service from 14 August 2014 to 7 April 2018, and his PEBD is shown as 10 April 2010.

f. DA Form 1506 dated 13 March 2020, showing his PEBD as 8 April 2010.

g. TSP savings account balance history screenshot dated 21 February 2023, which shows his TSP uniformed services contributions for the year 2019.

h. His Request for CP BRS approved on 4 May 2023, which shows the applicant acknowledged he understood he would be receiving CP, as part of the BRS, in return for his continued service in the U.S. Army. He agreed to accept CP and the amount of payment would be 2.5 times the monthly basic pay for his current pay grade and years of service as listed on the monthly basic pay table provided by DFAS in effect on the date he signed the form. He also agreed to an Additional Obligated Service of 4 years commencing from the date he signed the request form, and he requested his CP to be paid in one single lump-sum payment. The form was endorsed by him on 28 March 2023, the certifying official on 21 April 2023, and the approval authority on 4 May 2023. The form does not show a control number.

4. On 25 October 2023, the Office of the Deputy Chief of Staff G-1, Program Analyst, Compensation and Entitlements Division, provided an advisory opinion for this case and recommended approval. The advisory official stated:

a. After careful review of the information provided, we recommend this case be approved in the interest of fairness and equity. The applicant claims to not have been provided with timely and accurate guidance regarding this application of CP prior to his 12th year of service, and otherwise would have submitted this request within the published timeframe. The applicant submitted a completed request for CP effective 28 March 2023; however, the end point for pay was 8 April 2022.

b. The applicant's request for payment of CP should be made based on date he would have been otherwise qualified for in accordance with reference 1.c, specifically, in the pay grade of O-3 with 12 years of service for pay on 8 April 2022.

c. If the Board grants administrative relief, the payment would be based on the pay grade of O-3 with 12 years for pay purposes from the 2022 pay scale (\$7,362.90 x 2.5

= \$18,407.25, gross entitlement, less Federal withholding tax at 22 percent and applicable state taxes).

d. We [the G-1 office] have coordinated with the Defense Finance Accounting Service, System Liaison and Processing Division, to process BRS enrollment retroactive to the current accession date of 23 October 2019. This action was submitted via case number 283190XX effective 24 October 2023, and will update on the master military pay account within 45-60 days.

5. On 30 October 2023, the applicant was provided a copy of the G-1 advisory opinion to allow for comments and/or rebuttal. He did not respond.

#### BOARD DISCUSSION:

After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. The applicant contends he was not provided with timely and accurate guidance regarding this application of CP prior to his 12th year of service, and otherwise would have submitted this request within the published timeframe. According to his DA Form 1506, his PEBD is shown as 10 April 2010. The applicant completed 12 years of service on 8 April 2022. He submitted a completed request for CP effective 28 March 2023; however, the end point for pay was 8 April 2022. The Board was persuaded by the applicant's argument and, also agreed with the advisory official's finding that the applicant's request for payment of CP should be made based on date he would have been otherwise qualified for, in the pay grade of O-3 with 12 years of service for pay on 8 April 2022.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

█	█	█	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined the evidence presented is sufficient to warrant a recommendation for relief. As a result, the Board recommends that all Department of the Army records of the individual concerned be corrected by:

- Showing the applicant timely submitted his Request for Continuation Pay – Blended Retirement System before reaching his 12th year of service
- Showing the appropriate office timely received and processed his approved request for CP BRS
- Paying the applicant based on the pay grade of O-3 with 12 years for pay purpose from the 2022 pay scale, less applicable federal and state taxes (DFAS determined the exact amount)

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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. Title 37, United States Code (USC), Section 356 (CP: Full Thrift Savings Plan (TSP) Members with 12 years of service) states:

a. The Secretary concerned shall make a payment of CP to each full TSP member of the uniformed services under the jurisdiction of the Secretary who:

- completes 12 years of service; and
- enters into an agreement with the Secretary to serve for an additional 4 years of obligated service

b. The amount of CP payable to a full TSP member shall be the amount that is equal to:

(1) In the case of a member of a regular component, the monthly basic pay of the member at 12 years of service multiplied by 2.5; plus at the discretion of the Secretary concerned, the monthly basic pay of the member at 12 years of service multiplied by such number of months as the Secretary concerned shall specify in the agreement; and

(2) In the case of a member of a Reserve Component, the amount of monthly basic pay to which the member would be entitled at 12 years of service if the member were a member of a regular component multiplied by 0.5; plus at the discretion of the Secretary concerned, the amount of monthly basic pay multiplied by such number of months as the Secretary concerned shall specify in the agreement.

c. In addition to the CP, the Secretary concerned may provide CP to a full TSP member in an amount determined by the Secretary concerned.

d. The Secretary concerned shall pay CP to a full TSP member when the member completes 12 years of service. If the Secretary concerned also provides CP to the member, that CP shall be provided when the member completes 12 years of service.

e. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

f. CP is in addition to any other pay or allowance to which the full TSP member is entitled.

g. A full TSP member who receives CP and fails to complete the obligated service required shall be subject to the repayment provisions.

2. Office of the Assistant Secretary of the Army Manpower and Reserve Affairs Memorandum – Subject: Blended Retirement System (BRS) Continuation Pay (CP) - Calendar Year 2022 (CY22), 27 January 2022, establishes eligibility, amounts, and additional service obligation for CP in CY22 as authorized in Title 37, USC, Section 356 and 373. This guidance is effective immediately and expires on 31 December 2022. It applies to Regular Army (RA), Army National Guard/Army National Guard of the United States, and United States Army Reserve Soldiers who are covered under the BRS.

a. Paragraph 4a (Eligibility) states, RA and Active Guard Reserve (AGR) members who meets the following criteria are eligible to enter into an agreement to serve the obligation period specified in paragraph 6 below:

- Is covered under the BRS; and
- Is between 10 and no more than 12 years of service, as computed from the Soldier's Pay Entry Base Date (PEBD)

b. Paragraph 4b states, Army Reserve and Army National Guard, not in an AGR status, must meet the eligibility criteria listed in paragraph 4.a and be a member of the Selected Reserve (SELRES) or otherwise a member of the Ready Reserve in a status in which the member is eligible to receive basic pay.

c. Paragraph 5 (CP Amount) states, for those eligible to apply for CP during CY22, the CP amount will be computed using their current pay grade and years of service as listed on the monthly basic pay table provided by the Defense Finance and Accounting Service in effect on the date of the Soldier's request and as follows: (1) For RA, and Title 10 and Title 32 AGR Soldiers performing active service in a career status program, CP is 2.5 times the monthly basic pay. (2) For Army Reserve and Army National Guard Soldiers serving in the SELRES (minus AGR), CP is 4 times the active duty monthly basic pay.

d. Paragraph 6 (Service Obligation) states, in exchange for the CP described in paragraph 5, Soldiers must agree to serve four years of additional service in the component in which they are serving at the time CP is requested. The service obligation commences on the date of the Soldier's CP request.

e. Paragraph 7 (Application Process) states, the Army will use the Request for Continuation Pay (Blended Retirement System) as the CP contract to document the Soldier's CP election and obligated service. The CP contract will be placed in the Interactive Personnel Electronic Records Management System, referred to as iPERMS, under the service and finance subfolders. At a minimum, the BRS CP election packet will include the following:

- Proof of BRS enrollment status

- Request for Continuation Pay (Blended Retirement System)/CP contract

f. All Soldiers may submit their CP request once they become eligible for CP based on meeting eligibility criteria listed in paragraph 4. Soldiers must sign their CP request on or before the start of their 12th year of service based on PEBD. Payments are not payable until BRS opt-in can be verified, and the CP is approved. Commanders may appoint appropriate personnel to serve as CP certifying officials. When no appointment has been made, the certifying official will be the Soldier's servicing military personnel office and/or servicing human resources specialist.

g. Paragraph 8 (Payment Options) states, (1) Soldiers may elect to receive CP in a single lump sum or in a series of equal installments, not to exceed four annual payments over four consecutive years. (2) Soldiers who want to have their CP payment(s) directed to their TSP must update their allotment allocations in myPay and their TSP settings to ensure the CP funds are distributed in accordance with their personal financial plan prior to submitting the CP request.

h. Paragraph 9 states, the approval authority will be the requesting Soldier's immediate commander.

//NOTHING FOLLOWS//