

IN THE CASE OF: [REDACTED]

BOARD DATE: 11 April 2024

DOCKET NUMBER: AR20230009405

APPLICANT REQUESTS: in effect,

- correction of his DD Form 214 (Certificate of Release or Discharge from Active Duty) to reflect the grade of sergeant first class (SFC)/E-7
- adjustment of his disability allotments

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

- DD Form 149 (Application for Correction of Military Record)
- DA Form 199 (Informal Physical Evaluation Board (PEB) Proceedings)
- Directorate of Personnel and Family Readiness Orders Number 088-0019
- U.S. Army Human Resources Command (HRC) Orders Number 167-69
- DD Form 214 for service ending 21 June 2022
- Department of Defense (DoD) Uniformed Services Identification Card
- U.S. Passport

FACTS:

1. The applicant states in effect, he received his promotion orders to the rank of SFC/E-7 on 16 June 2022 prior to his Expiration Term of Service (ETS) of 21 June 2022. He requests the Board grant him relief and correction of his DD Form 214 to reflect he was promoted to the rank of SFC/E-7 and the adjustment of his disability allotments.

2. A review of the applicant's service record shows:

a. On 28 March 2013, the applicant enlisted in the U.S. Army Reserve (USAR) Delayed Entry Program (DEP). He was discharge from the USAR DEP and enlisted in the Regular Army on 15 July 2013 and had continuous service through extensions and reenlistments.

b. The applicant's Enlisted Record Brief shows:

- graduated Basic Leader Course in 2014

- graduated Advanced Leader Course in 2015
- void of evidence of graduation of the Senior Leader Course
- ETS 2 September 2022
- promoted to the rank/grade of staff sergeant (SSG)/E-6 on 1 March 2017
- last physical dated 21 October 2021 issued permanent "3" physical profile

c. DA Form 1059 (Service School Academic Evaluation Report) shows the applicant exceeded course standards for the Advanced Leader Course during the period of 1 April through 15 October 2015.

d. On 9 March 2022, the informal PEB found the applicant physically unfit for retention and recommended he be placed on the permanent disability retired list with 50 percent disability due to:

- C-spine spondylosis, degenerative arthritis, degenerative disc disease with herniated nucleus pulposus – 30 percent disability
- right knee anterior cruciate ligament tear, right knee posterior cruciate tear – 20 percent disability (instability)
- right knee anterior cruciate ligament tear, right knee posterior cruciate tear – 10 percent disability (painful motion)

e. On 29 March 2022, Orders Number 088-0019, issued by the Directorate of Personnel and Family Readiness, the applicant was retired due to a permanent physical disability and placed on the retired list effective 22 June 2022 in the rank/grade of SSG/E-6 under the provisions of Title 10 United States Code (USC), section 1372 with a 50 percent disability. His disability was a result from a combat related injury.

f. On 16 June 2022, Orders Number 167-69, issued by HRC, promoted the applicant to the rank/grade of SFC/E-7, effective on with a date of rank of 1 July 2022. The orders stated that acceptance of the promotion constituted an acceptance of a 3-year Service Remaining Requirement (SRR) from the effective date of the promotion for Soldiers selected on the Fiscal Year 2012 or later board. Soldiers with over 12-years of active Federal service were required to reenlist for an indefinite status if they did not have sufficient time remaining to meet the SRR.

g. The applicant was honorably retired from active duty effective 21 June 2022 and assigned to the USAR Control Group (Retired Reserve) under the provisions of Army Regulation (AR) 635-40 (Physical Evaluation for Retention, Separation and Retirement), chapter 4 (Combat Related Disability). DD Form 214 shows the applicant completed 8-years, 11-months, and 7-days of active service. It also shows in items:

- 4a (Grade, Rate or Rank): SSG
- 4b (Pay Grade): E6

- 12h (Effective Date of Pay Grade): 1 March 2017

3. The applicant provides:

a. HRC Orders Number 167-69 dated 16 June 2022 which shows the applicant was promoted to the rank/grade of SFC/E-7, effective on with a date of rank of 1 July 2022. The orders also state the promotion was a temporary promotion in accordance with Headquarters Department of the Army Memorandum dated 20 October 2021, Subject: Expanded Applications of Temporary Promotion to Master Sergeant and SFC. Soldiers who receive a temporary promotion must meet SRR upon graduation of Professional Military Education.

b. DoD Uniformed Services Identification and Privilege Card shows the applicant's rank/grade as SFC/E-7.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found relief is warranted.

2. The Board found the evidence shows the applicant's Disability Evaluation System processing and the processing of his promotion to SFC/E-7 occurred in parallel and, unfortunately, it appears the command managing his retirement processing completed the process without being aware that he was on an approved promotion list and was therefore eligible to be promoted to SFC/E-7 effective the day he was retired. The Board determined his retirement orders and his DD Form 214 should be corrected to reflect this promotion.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

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

BOARD DETERMINATION/RECOMMENDATION:

1. 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:

- Amending Orders Number 088-0019, issued by the Installation Management Command, Directorate of Personnel and Family Readiness, Joint Base Lewis-McChord, on 29 March 2022 to show his retired grade as SFC and his date of rank as 21 June 2022
- Amending Orders Number 167-69, issued by the U.S. Army Human Resources Command on 16 June 2022 to show the effective date and date of rank for his promotion to SFC as 21 June 2022
- Amending his DD Form 214 to show in –
  - Item 4a – SFC
  - Item 4b – E07
  - Item 12i – 2022 06 21

2. The individual concerned should be paid any additional monies he is due as a result of these corrections.

8/27/2024

X 

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CHAIRPERSON  


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) 600-8-19 (Enlisted Promotions and Reductions) in effect at the time, prescribes the enlisted promotions and reductions function of the military personnel system.

a. Paragraph 1-21 (Promotion of Soldiers in the Disability Evaluation System), Soldiers in the Disability Evaluation System (DES) process who are pending a medical fitness determination (referral to a medical evaluation board, or PEB) remain otherwise eligible for promotion consideration, selection, and pin-on. The issuance of a permanent

profile of "3" or "4" alone will not be used as the sole basis for determining PMOS disqualification. No Soldier who is in the DES process will lose his or her promotable status solely because a promotion list expires prior to a vacancy for promotion becoming available. While in the DES, Soldiers are not required to meet prescribed SRR for promotion as provided for in this regulation. Per the provisions of Title 10, USC, section 1372, Soldiers on a promotion list who are retired for physical disability (10 USC 1201 or 1204) or who are placed on the temporary disability retired list (TDRL) (10 USC 1202 or 1205) at the time of retirement for disability will be retired for disability at the promotion list grade. The Soldier will be promoted effective the day before placement on the retired list or TDRL regardless of cutoff scores, sequence numbers, or position availability. In all cases, the Soldier must otherwise be eligible for promotion in accordance with paragraph 1-11 (the Noncommissioned Officer Professional Development System (NCOPDS) requirements in paragraph 1-29 are waived).

b. Paragraph 1-29 (Noncommissioned Officer Professional Development System requirement for promotion and conditional promotion), a. Except for promotions completed under the provisions of paragraphs 1-18, 1-19, 1-20, 1-22, 3-5, and 8-3, Soldiers (all components) must complete the following professional military education (PME) courses: completion of Structured Self Development (SSD)/DLC 3 is an eligibility requirement for promotion consideration to SFC. Graduation of the Senior Leaders Course (SLC) is a promotion requirement to SFC.

c. Paragraph 1-36 (Temporary Promotion), The Deputy Chief of Staff G1 may, during specified periods designated in writing, authorize temporary promotions to the grade of SGT or above. A temporary promotion is a promotion to the next higher grade that terminates on a specified date unless an established requirement is met. A temporary promotion authorized under this provision will remain until such time the condition is met, at which point the promotion is permanent or the promotion expires, whichever comes first. The promotion instrument will include the following statement; "This promotion is temporary and will terminate on the date shown unless the following condition is met before the termination is made." The order will identify the condition such as graduation from a specified NCOPD course.

d. Paragraph 4-8 (Service remaining requirement), Soldiers incur a 3-year (36-month) service obligation upon promotion to SFC. The service remaining requirement begins on the effective date of promotion, unless Soldiers are in one of the following categories: Eligible for retirement based on retention control point (RCP) for the recommended grade, already eligible through prior service for a higher rank at time of retirement or Age 60 or older. Soldiers not having sufficient time remaining in service must reenlist or extend to meet the obligated service or decline promotion. If service remaining requirement is not met; orders will be revoked.

e. Paragraph 4-15 (Removal from a Centralized Selection List), commander will promptly forward documentation pertaining to Soldiers on the selection list who have an approved retirement as of the date of the selection list approval.

2. Title 10 United States Code (USC), section 1372 (Grade on retirement for physical disability: members of armed forces), 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 is entitled to the grade equivalent to the highest of the following:

- 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
- highest temporary grade or rank in which he served satisfactorily, as determined by the Secretary of the armed force from which he is retired
- 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
- 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

3. Headquarters Department of the Army (HQDA) Memo dated 20 October 2021 (Expanded Application of Temporary Promotion to Master Sergeant and Sergeant First Class); HQDA Memo dated 1 November 2021 (Consolidated and Updated Application of Noncommissioned Officer Temporary Promotions, Soldiers have 12-months from the date of the temporary promotion to graduate the respective Professional Military Education (PME) for the grade which promoted. The service remaining requirement does not begin until completion of the PME. Soldiers that retire, separate/discharge, or transfer to the IRR after receiving a temporary promotion without completing PME will be reduced to their previous grade effective the day prior to their separation date.

//NOTHING FOLLOWS//