

ARMY BOARD FOR CORRECTION OF MILITARY RECORDS

RECORD OF PROCEEDINGS

IN THE CASE OF: [REDACTED]

BOARD DATE: 12 June 2024

DOCKET NUMBER: AR20230010602

APPLICANT REQUESTS: an Exception to Policy (ETP) resulting in entitlement to Continuation Pay (CP) under the Blended Retirement System (BRS).

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

- DD Form 149 (Application for Correction of Military Record)
- DD Form 577 (Appointment/Termination Record – Authorized Signature), 6 August 2020
- Request for CP (BRS), 10 August 2020
- Memorandum – Subject: BRS CP ETP, 13 July 2023
- Email communication

FACTS:

1. The applicant states in pertinent part that administrative systems and personnel were contributing factors to the delayed submission of his request for CP. He contests that he was actively engaged in meeting the deadline but was constantly misguided by his administrative staff due to their lack of knowledge.

2. A review of the applicant's available service records reflects the following:

a. On 7 November 2009, the applicant enlisted in the U.S. Army Reserve (USAR) for 8 years.

b. On 1 May 2020, Headquarters, 88th Readiness Division issued Orders Number 20-122-00093 announcing the applicant's promotion to the rank/grade of staff sergeant (SSG)/E-6, effective 1 May 2020.

c. On 8 August 2020, the applicant elected to extend his enlistment in the USAR by 5 months.

d. On 4 November 2021, the applicant reenlisted in the USAR for 3 years.

e. On 7 November 2021, the applicant completed 12 years of service in the USAR.

f. On 9 January 2024, the applicant reenlisted in the USAR indefinitely.

3. The applicant provides the following a:

a. DD Form 577 dated 6 August 2020, reflective of Mr. S_ H_ being appointed as a certifying officer responsible for verifying a Soldiers eligibility for CP BRS.

b. Request for CP (BRS) reflective of the applicant's submitted request to receive CP at a rate of 4 times his monthly basic pay to be paid in a lump sum. The applicant agreed to serve an Additional Obligated Service (AOS) of 4-years in accordance with the BRS CP - Calendar Year 2020 (CY20). The form is endorsed by the applicant but does not contain the endorsement of the certifying official nor the approval authority.

c. Memorandum – Subject: BRS CP ETP dated 13 July 2023 reflective of the applicant's commander's endorsement of his submitted request noting that he did make attempts to submit a request for CP but did not receive any helpful guidance to complete the action which resulted in him missing the eligibility window of 12-years' time in service. This was at no fault of the applicant and documentation has been provided to support this claim.

d. Email communication reflective of communication concerning the applicant's entitlement to CP dating back to June 2021. Noteworthy is the inconsistency of information and lack of knowledge as it pertains to the processing of a CP request.

4. On 19 January 2024, the Department of the Army, Office of the Deputy Chief of Staff, G-1, Program Analyst Compensation and Entitlements Division, provided an advisory opinion recommending disapproval of the applicants request because the submitted application was incomplete (failed to contain the signature of the certifying official and the approval authority). The applicant's request may be reconsidered upon resubmission of a properly completed CP application.

5. On 23 January 2024, the applicant was provided with a copy of the advisory opinion and afforded 30 days to provide comments.

6. On 13 February 2024, the 443rd Transportation Company (Combat Heavy), Army Reserve Administrator responded to the advisory opinion recommending approval of the applicant's request noting that the applicant signed and submitted his request to the approval authority on 10 August 2020 which is prior to reaching 12-years time in service. Per the provided advisory opinion completed and approved BRS Continuation Pay CY20 request packet has been submitted along with this letter providing that the original request was delinquent due to reasons outside of the applicant's control and should not be withheld from him for that reason.

BOARD DISCUSSION:

1. After reviewing the application, all supporting documents, and the evidence found within the military record, the Board found that relief was warranted. The Board carefully considered the applicant's record of service, documents submitted in support of the petition and executed a comprehensive and standard review based on law, policy and regulation. Upon review of the applicant's petition, available military records, the Department of the Army, Office of the Deputy Chief of Staff, G-1, Program-Compensation and Entitlements Division and the 443rd Transportation Company (Combat Heavy), Army Reserve Administrator advisory opinion, the Board concurred with the advising official 443rd Transportation recommendation for approval finding the applicant signed and submitted his request to the approval authority on 10 August 2020 which is prior to reaching 12-years' time in service. The opine noted, the completed and approved BRS Continuation Pay CY20 request packet has been submitted along with this letter providing that the original request was delinquent due to reasons outside of the applicant's control and should not be withheld from him for that reason.

2. The Board agreed there is sufficient evidence based on both advisory opines to support the applicant's contentions for an Exception to Policy (ETP) resulting in entitlement to Continuation Pay (CP) under the Blended Retirement System (BRS). As such, the Board granted relief.

BOARD VOTE:

Mbr 1 Mbr 2 Mbr 3

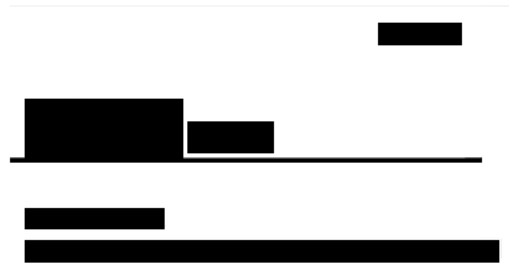
■	■	■	GRANT FULL RELIEF
:	:	:	GRANT PARTIAL RELIEF
:	:	:	GRANT FORMAL HEARING
:	:	:	DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

The Board determined that the evidence presented was 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 an exception to policy (ETP) resulting in entitlement to Continuation Pay (CP) under the Blended Retirement System (BRS):

1. showing the applicant was in receipt of a completed continuation pay (CP) request prior to the completion of 12 years of service as computed from the PEBD

2. DFAS paying his entitlement to CP utilizing the Military Pay Account and not the ABCMR funds payable through Debts and Claims.



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.

REFERENCE:

Title 37 United States Code (USC), section 356 (Continuation Pay) provides:

a. The Secretary concerned shall pay CP under subsection (a) to a full TSP member when the member has completed not less than 8 and not more than 12 years of service in a uniformed service. Enters into an agreement with the Secretary to serve for not less than four additional years of obligated service. A full TSP member may elect to receive CP in a lump sum or in a series of not more than four payments.

b. Payment Amount—the Secretary concerned shall determine the payment amount under this section as a multiple of a full TSP member's monthly basic pay. The multiple for a full TSP member who is a member of a Reserve Component, if the member is performing AGR duty (as defined in Title 10, USC, section 101(d)(6)), shall not be less than 2.5 times the member's monthly basic pay. The multiple for a full TSP member who is a member of a Reserve Component not performing AGR duty (as so defined) shall

not be less than 0.5 times the monthly basic pay to which the member would be entitled if the member were a member of a Regular Component.

c. In exchange for the CP described in paragraph 5, Soldiers must agree to serve for four years of additional service in the component in which they are serving at the time CP is approved. The service obligation commences upon approval of the CP request.

//NOTHING FOLLOWS//