

IN THE CASE OF: [REDACTED]

BOARD DATE: 25 July 2024

DOCKET NUMBER: AR20230012682

APPLICANT REQUESTS: reconsideration of his previous request for re-computation of his retirement pay at age 62 under the provisions of the Temporary Early Retirement Authority (TERA) due to his Public and Community Service (PACS).

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

- DD Form 149 (Application for Correction of Military Record)
- Personal Letter
- Verification of Employment Letter - [REDACTED]
- Verification of Employment Letter - [REDACTED]
- 2003 W-2

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 AR20220007111 on 3 February 2023.

2. The applicant states, in pertinent part, after receiving the Board's decision on his previous request, he located additional, new evidence, that would help to prove his employment history for reconsideration in his request for re-computation of his retired pay at age 62.

3. A review of the applicant's available service record reflects the following:

- a. On 27 April 1982, he enlisted in the Regular Army.
- b. On 4 March 1997, Orders Number 063-002 issued by Headquarters, U.S. Army Europe, Schweinfurt Transition Center, Germany, retired the applicant, effective 30 June 1997, and placed him on the retired list (early retirement) in the rank of staff sergeant/E-6, effective 1 July 1997.
- c. On 30 June 1997, he retired by reason of voluntary early retirement. His DD Form 214 (Certificate of Release or Discharge from Active Duty) shows he completed 15

years, 2 months, and 4 days of net active service. Item 5 (Date of Birth) shows 3 March 196X, and item 18 (Remarks) states, in pertinent part, "member is retiring as provided by section 4403 or the Fiscal Year 1993 National Defense Authorization Act (NDAA) (Public Law 102-484) and may qualify for a re-computation of retired pay at age 62 (section 4464 of same law)."

d. ABCMR Docket Number AR20220007111 decided on 3 February 2023, wherein the applicant requested re-computation of his retirement pay at age 62, under the provisions of TERA due to his PACS. The Board determined that relief was not warranted as the evidence provided by the applicant is void of any employment verification and, in accordance with applicable law, the Board can take no action and, therefore, denied relief.

4. The applicant provides the following:

a. Verification of Employment Letter - [REDACTED] dated 18 July 2023, showing his part - time employment (adjunct faculty member) with [REDACTED] from 1 August 1997 to 31 December 2001.

b. Verification of Employment Letter - [REDACTED] showing his employment (Heating and Ventilation Air Conditioning) with [REDACTED] from 21 September 2004 to 12 July 2010.

c. 2003 W-2 showing his employment [REDACTED] for an unspecified time frame in 2003.

5. On 22 February 2024, the Office of the Deputy Chief of Staff, G-1, Chief, Military Pay Branch, provided an advisory opinion recommending disapproval of the applicant's request stating, in effect:

a. After careful consideration, under the provisions of section 4464 of Public Law 102-484, the office does not recommend approval of the applicant's request for re-computation of his retirement pay at age 62. Per reference 1.b, employment must be full time.

b. The applicant retired from the Army under TERA on 30 September 1997 [sic], with a total of 15 years, 2 months, and 4 days of active Federal service. The letter for proof of employment as a part time employee from 1 August 1997, through 31 December 2001 is not creditable. The additional employment provided 21 September 2004 through 12 July 2010 cannot be accepted because his Enhanced Retirement Qualification Period is 21 September 2004. The 2003 W2 does not provide the dates of employment to be accepted as proof of employment.

6. On 23 February 2024, the applicant was provided with a copy of the advisory opinion to provide a response. He has not responded.

BOARD DISCUSSION:

After reviewing the application and all supporting documents, the Board determined relief was not warranted. The applicant's contentions, the military record, and regulatory guidance were carefully considered. Based upon the findings and recommendations outlined within the G1 advisory opinion and the lack of any rebuttal of those findings and recommendations submitted by the applicant, the Board concluded there was insufficient evidence of an error or injustice warranting a correction to the applicant's record.

BOARD VOTE:

Mbr 1      Mbr 2      Mbr 3

:            :            :            GRANT FULL RELIEF

:            :            :            GRANT PARTIAL RELIEF

:            :            :            GRANT FORMAL HEARING

■            ■            ■            DENY APPLICATION

BOARD DETERMINATION/RECOMMENDATION:

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 for correction of the records of the individual concerned.

1/7/2025

X

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. The NDAA for Fiscal Year 1993 (FY93 NDAA), PL 102-484, 23 October 1992, Congress enacted the TERA, which permitted selected military members to retire early. Section 534 of that law gave the Secretary of Defense authority to allow the Service Secretaries to permit early retirement for selected military members having more than 15 but less than 20 years of active service.
2. Section 4464 of the FY93 NDAA allowed eligible members retired under TERA to perform public and community service following retirement and receive credit for this service to be used to recompute military retired pay, and where applicable, the Survivor Benefit Plan based amount when the retired member attains or would have attained 62 years of age. Public and community service job vacancies included education, conservation, environmental protection, law enforcement and public health care positions.
3. Department of Defense Instruction (DODI) 1340.19 (Certification of Public and Community Service Employment of Military Retirees), paragraph 2.2.3, the veteran must have performed public/community service "within the period beginning on the date of retirement and ending on the date retired member would have attained 20 years of creditable service for computing retired pay." This timeframe is referred to as the Enhanced Retirement Qualification Period (ERQP). DODI 1340.19 paragraph 5.3.3 also states all reporting should have been completed by the retiree no later than one year following the ERQP.
4. DODI 1332.37 (Program to Encourage Public and Community Service Employment) establishes policy, assigns responsibilities, and prescribes procedures to encourage and assist separating Service members, Service members retiring with 20 or more years of service, Department of Defense (DOD) civilian personnel leaving the Government, and spouses, to enter PACS employment and to encourage and assist Service members requesting retirement with fewer than 20 years of service to register for PACS employment.
  - a. Section 4.2.2. In order to have their military retired pay recomputed in accordance with DODI 1340.19 (Certification of Public and Community Service Employment of Military Retirees), early retirees must be employed with a DOD-registered PACS organization that provides the services listed in enclosure 1, subparagraphs E1.1.4.1. through E1.1.4.12., or that coordinates the provision of services listed in enclosure 1, subparagraphs E1.1.4.1. through E1.1.4.12. PACS organizations provide or coordinate the following services:
    - Elementary, secondary, or post-secondary school teaching or administration
    - Support of teachers or school administrator

- Law enforcement
- Public health care
- Social services
- Public safety
- Emergency relief
- Public housing
- Conservation
- Environment
- Job training
- Work in a Federal, state or local government organization in which provides or coordinates services listed above
- Other PACS consistent with or related to services listed above

b. Section 6.3.1. Registering for PACS is a requirement for consummation of their early retirement under Public Law 102-484, section 4403 or section 561 of Public Law 103-160.

c. Section 6.3.5. DOD-approved PACS employment qualifies the Service member who is retired under Public Law 102-484, section 4403 or Public Law 103-160 for increased retired pay effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age. The former service member must have worked in DOD-approved PACS employment between the date of early retirement and the date in which he or she would have attained 20 years of creditable service for computing retired pay, and have retired on or after 23 October 1992 and before 1 October 1999.

5. Retirees were required to document their employment using DD Form 2676 (Validation for Public or Community Service) and submit the form to the DMDC. The timeline to submit PACS applications to the DMDC ended 1 year to the day after the member's ERQP expired. DMDC is no longer authorized to accept any new PACS applications. The program officially expired in August 2008 (1 year after the last official TERA recipient's ERQP expired).

//NOTHING FOLLOWS//