


DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 21-96

FINAL DECISION


This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on November 9, 1995, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated November 22, 1996, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a subsistence specialist first class (SS1; pay grade E-6), asked the Board to correct his record so that he would be eligible to receive a selective reenlistment bonus (SRB). He claimed that at the time he enlisted in the Coast Guard, he was not counseled with regard to the SRB incentives that he would have been entitled to at the 10-year point in his military career. He enlisted in the Coast Guard after serving in the Navy.

On February 22, 1996, the Coast Guard recommended that the applicant's request for relief be denied.

Views of the Coast Guard

The Coast Guard stated that SRBs apply to reenlistments and extensions. The Service stated that the applicant was not eligible for an SRB upon his enlistment in the Coast Guard because he failed to "reenlist not later than three months after discharge or release from active duty in a rating authorized for an SRB multiple." COMDTINST 7220.33, paras. 3.a.1., 3.b.1., 3.c.1. The Coast Guard stated that the applicant became ineligible for an SRB one month prior to his enlistment in the Coast Guard.

The Coast Guard noted that the applicant was discharged from the Navy on October 5, 1991, with nine years, two months, and 24 days of service. He enlisted in the Coast Guard on February 18, 1992. A period of four months and 13 days had elapsed between the applicant's discharge from the Navy and his enlistment in the Coast Guard. Therefore, the applicant was not eligible for an SRB because he did not meet the

"continuous" service requirement (i.e. must enlist within three months from date of discharge to remain in a continuous service status to be eligible for an SRB).

The Coast Guard argued that the applicant has pointed to no authority that required the Service to counsel him about his ineligibility for an SRB.

The Coast Guard asserted that the applicant has not submitted substantial proof of error or injustice in his military record in accordance with 33 C.F.R. § 52.21. The applicant has not overcome the strong presumption that his military superiors discharged their duties correctly, lawfully, and in good faith. Arens v. U.S., 969 F.2d 1034, 1037 (Fed. Cir. 1992); Sanders v. United States, 594 F. 2d 804, 813 (Ct. Cl. 1979).

Applicant's Response to the Views of the Coast Guard

A copy of the views of the Coast Guard was sent to the applicant on February 29, 1996, with a letter notifying him that he had 15 days to respond to those views. The applicant did not submit a response.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's submissions, the Coast Guard's submission, and applicable law:

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10, United States Code. The application was timely pursuant to Detweiler v. Pena, 38 F 3d. 591 (D.C. Cir. 1994).

2. The applicant was not eligible for an SRB upon his enlistment in the Coast Guard because more than three months had elapsed between the time of his discharge from the Navy and his enlistment in the Coast Guard. Article 1-G-6 of the Personnel Manual states that "in order to receive a [SRB] a member must reenlist within 3 months from date of discharge. . . ." See also COMDTINST 7220.33, paras. 3.a.1, 3.b.1, and 3.c.1.

3. Since the applicant was not eligible for an SRB at the time of his enlistment, the issue of counseling is moot.

4. Accordingly, the applicant's request for relief should be denied.

ORDER

The application of
military record is denied.

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