


**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1998-082

FINAL DECISION


This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14, United States Code. It was commenced on May 12, 1998, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated March 25, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a boatswain's mate third class (BM3; pay grade E-4) asked the Board to correct her record to show that she reenlisted on November 14, 1997, rather than on April 21, 1997, so that she would be eligible to receive a Zone A selective reenlistment bonus (SRB) based on four years of service.

EXCERPTS FROM THE RECORD AND SUBMISSIONS

The applicant entered into two reenlistment contracts covering essentially the same period of time. On the advice of her command, the applicant reenlisted in the Coast Guard, on April 21, 1997, for four years, so that she could accept permanent change of station (PCS) orders. That reenlistment was canceled (explained later) and the applicant was told that she could reenlist, which she did on November 14, 1997, for four years.

The applicant stated that she reenlisted on November 14, 1997 with the understanding that she would receive a Zone A SRB. Her November 1997 reenlistment contract indicated that she was entitled to a Zone A SRB with a multiple of 1.

The applicant did not receive this SRB payment, as promised, because of the confusion that was created by her earlier enlistment, on April 21, 1997, for four years. Since she was serving in her first enlistment on April 21, 1997, she could not have reenlisted until she had obtained the approval of the Centralized First Term Reenlistment Review (CFTRR). The April 21, 1997, reenlistment was canceled by the

Coast Guard Personnel Command on July 28, 1997, because the CFTRR had not approved the applicant for reenlistment.

On August 11, 1997, ALDIST 190/97 temporarily suspended the provisions of the CFTRR policy to allow members to reenlist without its approval. On November 14, 1997, the applicant reenlisted for four years to qualify for a Zone A SRB with a multiple of 1.

The applicant stated that the Coast Guard refused to pay the SRB based on a full 48 months of service because it considered both of her reenlistments to be valid, even though the earlier reenlistment had been canceled due to an error. She was also told that she would receive an SRB for only seven months of service because the November reenlistment added only seven months of service on to the time she had already obligated herself to serve under the April 1997 reenlistment. The applicant claimed that she has been treated unfairly, since her command committed the error by reenlisting her prior to the approval of the CFTRR panel.

The applicant stated that in April 1997, she should have been extended for twenty four months, not reenlisted. By extending, the applicant still could have reenlisted to obtain an SRB in November 1997. She could do this because she could have canceled her extension prior to it becoming operative on June 20, 1998, the date her original enlistment would have expired.

Views of the Coast Guard

On February 11, 1999, the Chief Counsel of the Coast Guard recommended that the applicant receive partial relief. He recommended that the applicant receive an SRB based on 41 months of newly obligated service as a result of her reenlistment on November 14, 1997.

The Chief Counsel stated that to accept PCS orders in April 1997, the applicant needed to extend for only 24 months, not reenlist for four years. (She was erroneously told by her command that she needed to reenlist for four years in order to accept PCS orders.)

The Chief Counsel stated that the applicant had previously obligated service through June 20, 1998, having entered on to active duty on July 21, 1994. Therefore when she reenlisted on November 14, 1997, she had seven months remaining on her original enlistment. Previously obligated service is not included in SRB calculations. On November 14, 1997, the applicant obligated herself for approximately 41 months of newly obligated service, for which she can receive an SRB. The Chief Counsel stated that the applicant has already received an SRB payment based on six months of that newly obligated service. She is entitled to an SRB covering an additional 35 months.

Applicant's Response to the Views of the Coast Guard

On February 16, 1999, a copy of the views of the Coast Guard was mailed to the applicant. On February 26, 1999, the Board received the applicant's response, stating that she agreed with the Coast Guard that she should receive an SRB covering an additional 35 months of service.

SELECTED EXCERPTS FROM THE SRB INSTRUCTION

Para. 3.d.(11), COMDTINST 7220.33 (SRB Instruction), states as follows:

Entitlement to SRB multiple and bonus ceiling is established on the actual date of reenlistment or the date the member executes an Agreement to Extend Enlistment by signing Form CG-3310B. Entitlement to any Zone of SRB is established only on the date the member reenlists or the extension become operative.

Para. 3.d.(6), COMDTINST 7220.33 states in pertinent part:

Members should be informed that their SRB entitlement will be based only on newly acquired obligated service. For example, if a member cancels a 3-year extension to reenlist for six years, the member will only be paid SRB entitlement for the additional 3 years of service. An exception to this rule is made for extensions of 2 years or less, or multiple extensions (each of which is 2 years or less in length, required of a member for transfer, training, advancement, or tuition assistance. These extensions may be canceled prior to their operative date for the purpose of immediate reenlistment or longer extension without any loss of SRB entitlement.

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10, United States Code. The application is timely.
2. The Board finds that the applicant was erroneously advised by her unit, in April 1997, that she was required to reenlist for four years to accept PCS orders. The applicant should have been advised to extend her enlistment for 24 months to meet the obligated service requirement to accept PCS orders. If she had extended her enlistment in April 1997, she could have canceled that extension prior to its operative date, June 20, 1998, and reenlisted on November 14, 1997, for four years, to qualify for a Zone A SRB.

3. The Coast Guard committed a second error by permitting the applicant to reenlist in April 1997 before she had been approved for reenlistment by the CFTRR panel. That approval was necessary because servicemembers in their first enlistment cannot reenlist without the CFTRR's approval.

4. Additionally, the Coast Guard committed an injustice when it refused to pay the applicant an SRB based on the November 14, 1997, reenlistment contract by claiming that the April 1997 reenlistment was still valid. The Board notes that CGPC notified the applicant, on July 28, 1997, that the first reenlistment of April 21, 1997, had been canceled because she was ineligible to reenlist at that time. Acting on that advice, the applicant executed another reenlistment and was promised a Zone A SRB, which the Coast Guard unfairly refused to pay, except for an SRB covering a six-month period.

5. The Board finds that under the circumstances of this case, it would be unfair to deny the applicant an SRB for 41 months of newly obligated service (less the already paid SRB based on six months of service) based on her reenlistment of November 14, 1997.

6. The Board finds, and the Coast Guard agrees, that the applicant's record should be corrected to show that she reenlisted on November 14, 1997, for a period of four years to obtain a Zone A SRB as her only reenlistment contract for the period under review.

7. Accordingly, the applicant's request for relief should be granted.

ORDER

The application of BM3 ^ for correction of her military record is granted. Her record shall be corrected to show that she reenlisted on November 14, 1997, for four years and obtained a Zone A SRB with appropriate multiple. The seven months of obligated service remaining on her original enlistment and the SRB payment based on six months of service will be deducted from the applicant's SRB payment. She shall receive an additional SRB payment based on 35 months of service.

Her reenlistment of April 21, 1997, shall be null and void.

