

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1998-100

FINAL DECISION

[REDACTED]

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 August 4, 1998, upon the BCMR's receipt of the applicant's request for correction.

This final decision, dated May 6, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, an electrician's mate second class (EM2; pay grade E-5), asked the Board to correct his record to show that he reenlisted on February 6, 1998, (his 10th-year anniversary date) for six years, so that he would be eligible for a selective reenlistment bonus (SRB), in accordance with ALDIST 226/97.

The applicant spent five months and one day on active duty as a member of the United States Marine Corps Reserve, prior to enlisting in the Coast Guard. On August 22, 1988, he enlisted in the Coast Guard for a period of four years. On November 9, 1990, he extended this four year enlistment for a period of ten months. On June 1, 1995, the applicant reenlisted in the Coast Gourd for a period of four years.

EXCERPTS FROM THE RECORD AND SUBMISSIONS

The applicant stated that he was not counseled, prior to his tenth year anniversary date (February 6, 1998), that he could request an early discharge and immediate reenlistment for the purposes of obtaining an SRB. He stated that he did not receive such counseling until three days after his tenth year anniversary date had passed.

Views of the Coast Guard

On April 2, 1999, the Board received an advisory opinion from the Chief Counsel of the Coast Guard. The Chief Counsel recommended that the Board grant relief to the applicant.

The Chief Counsel stated that the applicant was not properly counseled on his eligibility for an SRB prior to his tenth year anniversary date, pursuant to COMDTINST 7220.33. The Chief Counsel stated that the applicant's record, in fact, showed that he was counseled three days after his anniversary date had passed.

The Chief Counsel stated that the SRB multiple for electrician's mates, like the applicant, was 1/2. The Chief Counsel further stated, as follows:

Applicant should have been counseled on his eligibility to receive an early discharge from his current enlistment to reenlist for up to 6 years for an SRB. There is no evidence in the record this counseling ever took place.

The Chief Counsel stated that the applicant's statement that he would have reenlisted for six years to obtain an SRB represents the necessary consideration for the SRB. The Chief Counsel also noted that once the applicant discovered the error, he acted promptly, by filing a BCMR application, prior to the expiration date of the pertinent Zone B SRB multiple.

Applicant's Response to the Views of the Coast Guard

On April 22, 1999, the Board received the applicant's response to the views of the Coast Guard. He agreed with them.

APPLICABLE REGULATIONS

Enclosure (1) to COMDTINST 7220.33, Section 3.b.(3), states, in pertinent part, as follows: "Members with exactly 10 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone B multiple in effect for their rating if they are otherwise eligible. . . ."

Section 3.d.(9) states, in pertinent part, as follows: "Commanding officers are authorized to effect early discharge and reenlist members within 3 months prior to their 6th, 10th, or 14th year active service anniversary dates (not to be confused with the normal expiration of enlistment), for the purpose of qualifying for a Zone A, B, or C SRB respectively."

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's submissions and military record, 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.

2. The Board finds that the applicant was not properly counseled, that within three months of his tenth year service anniversary date, he could have been discharged and immediately reenlisted for up to six years to obtain a Zone B SRB. Para. 3.d. (9), COMDTINST 7220.33.

3. February 6, 1998, was the applicant's tenth year anniversary of military service. There was an SRB multiple of 1/2 in effect on that date for members in the EM rating. This SRB multiple became effective on October 1, 1997, and was in effect on February 6, 1998. The applicant was eligible for this SRB.

4. Accordingly, the applicant could have requested a discharge and immediate reenlistment for the purposes of obtaining an SRB. The Board finds that the applicant's record should be corrected to show that he reenlisted for six years on February 6, 1998, his tenth year anniversary date, for the purposes of obtaining a Zone B SRB.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

The application of _____, USCG, for correction of his military record is granted. His record shall be corrected to show that he was discharged on February 6, 1998, and immediately reenlisted on the same date for a period of six years to obtain a Zone B SRB with appropriate multiple. The Coast Guard shall pay the applicant the amount due him as a result of this correction.

