

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:

BCMR Docket
No. 1999-033

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 docketed on December 16, 1998, upon the BCMR's receipt of the applicant's complete application for correction of his military record.

This final decision, dated October 7, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a marine science technician (MST2; pay grade E-5), asked the Board to correct his record to show that he was "[entitled] to [the] Zone B SRB (multiple of 1) that became effective 25 Nov 98; 12 days after [he] extended [his] enlistment."

On February 25, 1992, the applicant enlisted in the Coast Guard for four years. He extended this enlistment for nine months on November 2, 1994. On November 14, 1995, the applicant canceled that extension and reenlisted for three years. On November 14, 1998, the applicant extended his enlistment for two years. His current enlistment will expire on November 13, 2000.

On November 24, 1998, the Coast Guard announced ALDIST 290/98, which contained a multiple for the MST rating. The multiples announced in the ALDIST became effective on November 25, 1998.

In support of his application, the applicant stated as follows:

I extended on 13Nov98 for two years. ALDIST 290/98 . . . put a Zone B SRB into effect, on 25Nov98, for my rating. If ample notice had been given, I could have handled my extension differently to qualify for the bonus. It is unjust that someone who extends/reenlists just 12 days after me is entitled to an SRB and I'm not."

The applicant submitted a copy of Para. 2.b. of COMDTINST 7220.33 (SRB instruction) which states that "[c]hanges to SRB multiples will be announced via ALDIST at least 30 days in advance of the effective date of the amendment."

Views of the Coast Guard

The Chief Counsel of the Coast Guard recommended that the applicant's request be denied.

The Chief Counsel stated that the Board should deny relief in this case for lack of merit. He stated that the applicant's service obligation terminated on November 14, 1998, and unless the applicant voluntarily extended or reenlisted by November 14 1998, he would have been discharged from the Coast Guard. The Chief Counsel stated that even if the SRB information from ALDIST 290/98 had been available to the applicant and his command on November 14, 1998, the Coast Guard is unaware of any provision that would authorize the applicant's command to keep him on active duty from November 14, 1998 through 24 November 1998 so that he might qualify to receive an SRB.

The Chief Counsel stated that a member's end of enlistment date may or may not qualify him for an SRB depending on the personnel needs of the service at that time. The Chief Counsel stated that unfortunately in the instant case, the applicant's end-of-enlistment did not position him to qualify to receive an SRB, pursuant to ALDIST 290/98.

Applicant's Response to the Views of the Coast Guard

On September 13, 1999, the Board received the applicant's response to the views of the Coast Guard. The applicant stated that contrary to the Chief Counsel's opinion, he would have been able to take advantage of the multiple announced in ALDIST 290/98 if it had been published 30 days prior to its effective date, by accepting a discharge on November 14, 1998 and reenlisting 12 days later, on November 25, 1998. He stated that para. 3b.(1) of COMDTINST 7220.33 provides that "a member may take advantage of a [SRB] for a period not to exceed 3 months after the member's end of enlistment."

The applicant stated that he wanted his record corrected to show that on November 25, 1998, he reenlisted, not extended, so that he would be eligible for a full SRB.

APPLICABLE REGULATIONS

According to para. 3.b., COMDTINST 7220.33, to be eligible for a Zone B SRB the member must reenlist three months after discharge from active duty and be serving in

pay grade E-5 (with appropriate designator), or higher, on active duty in a rating that is designated as eligible for an SRB multiple."

Paras. 3.d. (4), (5) and 11 state the following:

(4) Only extensions/reenlistments of 3 years or longer may be used to establish eligibility for SRB. . . . Qualified members "lock into" SRB multiples and bonus ceilings that are in effect at the time an extension agreement is executed.

* * * * *

(11) 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." (Emphasis in instruction.)

Article 1.G.3.a. of the Personnel Manual states that "[f]or regular reenlistment on the day following discharge at the unit to which last regularly assigned shall be reenlisted in the rate held on the date of discharge." (Emphasis added.)

Pursuant to Article 1.G.3.b. and 1.G.4.b. of the Personnel Manual, reenlistment is not automatic after a discharge of more than 24 hours. Article 1.G.3.b. states that "[f]or regular reenlistments not occurring on the day following discharge at the unit to which last regularly assigned shall be reenlisted in accordance with current directives applying to recruiting officers. Authority to reenlist in other rates or rating must be obtained from the Commandant."

Article 1.G.4.b. states that "[f]or regular reenlistments not occurring within 24 hours after discharge, a physical examination is required in accordance with the Recruiting Manual . . . , and personnel must be processed through a Coast Guard recruiting office."

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 was timely.

2. The SRB instruction clearly states that entitlement to an SRB multiple is established on the actual date of reenlistment or the date the member executes an agreement to extend. On November 14, 1998, the date the applicant reenlisted, he was not eligible for an SRB, because there was no SRB multiple in effect for marine science technicians at that time. The SRB multiple under discussion was announced on November 24, 1998 and became effective on November 25, 1998.

3. Even though the SRB multiple was not in effect at the time the applicant reenlisted on November 14, 1998, the applicant claims that it was possible for him to qualify for the SRB. He asserts that if the Coast Guard had announced the multiple 30 days in advance of its effective date, as called for by the SRB instruction, he would not have reenlisted on November 14, 1998 but would have been discharged and reenlisted approximately 12 days later, thereby qualifying for the SRB. The SRB instruction states that a member can still be eligible for an SRB, if reenlistment occurs within three months of discharge.

4. The applicant's contention -- that if the ALDIST had been announced 30 days prior to its effective, he could have been discharged on November 14, 1998 and reenlisted 12 days later to qualify for the SRB -- is specious. According to the Personnel Manual, reenlistment after a discharge of more than 24 hours, is not automatic; the prospective enlistee must meet and is subject to certain conditions.

First, if not reenlisted within 24 hours of discharge, there is no guarantee that the member will be accepted back into the Coast Guard. Second, even if the member is considered for reenlistment after a discharge of more than 24 hours, the member must undergo a physical examination where he may or may not be found fit for active duty. Third, there is no guarantee, that the member would be reenlisted at the same pay rate. In order to take advantage of the Zone B SRB, the applicant had to reenlist in pay grade MST2. After a 24 hour break in service, the needs of the Service dictate the rate and grade of reenlistment. Fifth, the reenlistment process must be completed by the end of the third month after a discharge to qualify for the SRB. See SRB instruction and Article 1.G. of the Personnel Manual. The applicant has failed to present sufficient evidence that he would have met these conditions twelve days or three months after an alleged discharge on November 14, 1998.

5. The applicant has not demonstrated to the Board by a preponderance of the evidence that even if the SRB multiple had been announced 30 days prior to its effective and he accepted a discharge, that he would have been reenlisted within the required time to qualify for an SRB, nor has he shown that if he had been permitted to reenlist within 3 months of his discharge date, that he would have been allowed to reenlist in a pay grade that would have qualified him for the Zone B SRB. The applicant has failed to prove that he suffered an injustice because of the Coast Guard's failure to announce the SRB multiple 30 days in advance of its effective date.

6. Accordingly, the applicant's request in this case should be denied.

ORDER

The application of
correction of his military record is denied.

→ USCG, for

