


DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 1999-034

FINAL DECISION


This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on December 16, 1998, after the Board received the applicant's complete application.

This final decision, dated September 23, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a quartermaster second class (QM2; pay grade E-5) on active duty in the Coast Guard, asked the Board to correct his military record by voiding his current reenlistment contract and releasing him from his military obligation due to an administrative error. He asked that "a new contract be drawn up" so that he may receive a Selective Reenlistment Bonus (SRB). "If this is not possible, I request that my reenlistment date of 31 March 1998 be changed to 01 April 1998 in order to qualify for the [SRB]."

APPLICANT'S ALLEGATIONS

The applicant alleged that prior to his sixth anniversary on active duty, his command counseled him that he could receive an SRB by reenlisting for up to six years. He was advised that under ALDIST 046/98, he would receive a Zone A SRB with a multiple of two if he reenlisted on March 31, 1998. Therefore, the applicant signed a reenlistment contract on that day. However, the Coast Guard thereafter informed his command that he would not receive the SRB because ALDIST 046/98 did not become effective until April 1, 1998, the day after he had signed his reenlistment contract.

SUMMARY OF THE RECORD

The applicant enlisted in the Coast Guard on June 30, 1992, for four years. On February 19, 1996, he reenlisted for three years. Therefore, his sixth anniversary on active duty fell on June 30, 1998.

On March 2, 1998, the Commandant of the Coast Guard issued ALDIST 046/98, which allowed members to receive an SRB if they reenlisted or extended their current enlistments between April 1, 1998 and September 30, 1998. ALDIST 046/98 provided that members in the QM rating who extended their enlistments or reenlisted would receive an SRB calculated with a multiple of two.

On March 5, 1998, the applicant's Personnel Unit sent his command a message that indicated that, if the applicant reenlisted after March 30, 1998, he would receive an SRB with a multiple of two under ALDIST 046/98. On March 31, 1998, the applicant reenlisted for six years.

VIEWS OF THE COAST GUARD

On August 26, 1999, the Chief Counsel of the Coast Guard recommended that the Board grant partial relief in this case.

The Chief Counsel stated that the applicant should be granted partial relief because he was eligible to receive the SRB and clearly desired to commit himself to an additional six years of service. The Chief Counsel also stated that the "evidence presented fully supports Applicant's allegations of plain error and also demonstrates that the Applicant and his command took prompt action to rectify the alleged error after its discovery."

The Chief Counsel argued, however, that the applicant has presented no evidence supporting his request that his reenlistment contract be voided altogether. The Chief Counsel stated that the applicant freely signed his reenlistment contract, committing himself to six years of service, and only the date of that contract should be changed.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On August 27, 1999, the Chairman sent the applicant a copy of the Chief Counsel's advisory opinion and invited him to respond within 15 days. The applicant did not respond.

APPLICABLE REGULATIONS

Enclosure (1) to Commandant Instruction 7220.33 (Reenlistment Bonus Programs Administration), Section 2 states that "[a]ll personnel with 14 years or less active service who reenlist or extend for any period, however, brief, shall be counseled on the SRB

program. They shall sign a page 7 service record entry, enclosure (3), outlining the effect that particular action has on their SRB entitlement."

Section 3.d.(1) of Enclosure (1) states that "[m]embers with exactly 6 years active duty on the date of reenlistment or operative date of extension will be entitled to the Zone A multiple in effect for their rating if they are otherwise eligible."

Section 3.d.(9) of Enclosure (1) states that "[c]ommanding 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. In such cases, SRB payments will be reduced by any portion of unserved service obligation."

Enclosure (3) to the instruction states that during the three months prior to the end of an enlistment, each member must be counseled concerning his or her eligibility for an SRB, have his or her questions concerning SRBs answered, and be provided with a copy of Enclosure (5), which is entitled "SRB Questions and Answers." The counseling must be memorialized in the member's record with a Form CG-3307 signed by the member.

ALDIST 046/98, issued on March 2, 1998, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments between April 1, 1998, and September 30, 1998. The multiple to be used for calculating SRBs for members in the QM rating was two.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's military record and submissions, the Coast Guard's submissions, 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 applicant was improperly counseled that he could receive a Zone A SRB under ALDIST 046/98 if he reenlisted between March 30, 1998, and June 30, 1998, his sixth active duty anniversary. ALDIST 046/98 did not become effective until April 1, 1998. However, based on the erroneous advice, the applicant reenlisted for six years on March 31, 1998, instead of on April 1st. Therefore, the applicant has been unfairly denied the SRB that was promised to him.
3. Although the applicant requested that his enlistment contract and military obligation be voided altogether, there is no basis in the record for granting this request.

4. The Chief Counsel recommended that the Board grant relief because the evidence indicates the Coast Guard made an administrative error and because the applicant acted promptly in seeking correction of the error.

5. Under Sections 3.d.(1) and 3.d.(9) of Enclosure (1) to the instruction, the applicant was eligible to be discharged on April 1, 1998, within three months of the sixth anniversary of his enlistment, in order to reenlist. Under ALDIST 046/98, he would have received a Zone A SRB with a multiple of two.

6. The Coast Guard erred by advising the applicant to reenlist to receive an SRB one day before ALDIST 046/98 became effective. Had he been properly counseled, the applicant would have been discharged and reenlisted on April 1, 1998.

7. Therefore, the applicant's record should be corrected by changing the date of his reenlistment contract from March 31, 1998, to April 1, 1998.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application for correction of the military record of USCG, is hereby granted as follows.

The date of the six-year reenlistment contract signed by the applicant on March 31, 1998, shall be changed to April 1, 1998.

The Coast Guard shall pay the applicant the amount due him as a result of this correction.

