


DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of

BCMR Docket No. 1999-144

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 July 1, 1999, upon the BCMR's receipt of the applicant's request for correction of his military record.

The final decision, dated April 13, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

SUMMARY OF RECORD AND SUBMISSIONS

Applicant's Allegations

The applicant alleged that he was not informed that he had a selective reenlistment bonus (SRB) when he received his leave and earnings statement (LES). When he reenlisted on January 26, 1999, there was no mention of bonus on any of his paperwork. "Had [he] known there was a Selective Reenlistment Bonus [he] would have reenlisted for 6 years instead of 4."

Views of the Coast Guard

The Chief Counsel of the Coast Guard recommended that the Board grant the relief requested.

The Chief Counsel said that "[i]n contrast to most SRB cases where, through improper counseling, the member failed to reenlist at an optional reenlistment decision point, Applicant here reenlisted at a mandatory point without the benefit of the knowledge that he was eligible to receive an SRB." The Chief Counsel found that the

Coast Guard failed to inform the applicant of his SRB eligibility, and as a result he was denied the opportunity to consider all his SRB options.

"He now states he would have chosen to reenlist for six years had he known there was a Zone 'B' SRB available. The record supports that assertion and, therefore, the relief should be granted."

The Chief Counsel said further that "the record shows that the Applicant took prompt action to rectify the alleged error after its discovery and is now willing to offer an additional six years of service obligation as consideration for the SRB he requests." He distinguished this case from denials in other cases in which the applicant eventually served in the Coast Guard "but never obligated himself to a 6-year enlistment to be served in the future." "Where a member, after keeping his options open, later claims years afterwards, that he fully intended to enlist at that point in time, it presents a case of 'past consideration'" where no relief is warranted. The Chief Counsel said "[t]his is not the case here and therefore, the Board should grant relief.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and the Coast Guard, 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 applicant has established that the Coast Guard committed an error by not counseling him with respect to his SRB options or opportunities when he reenlisted on January 26, 1999 for a period of 4 years. He did not know that he was eligible to receive a Zone B SRB at that time.

3. The applicant's first notice that his January 1999 reenlistment had qualified him to receive an SRB was his receipt of a leave and earnings statement indicating that payment of an installment based on that reenlistment was received in February 1999.

4. The reenlistment contract dated January 26, 1999 should be reformed to show an obligation of six (6) rather than four (4) years. The Board should grant relief based on the lack of required SRB counseling consistent with its decision in BCMR Case No. 1999-030 and its progeny. See also BCMR No 1999-026.

5. The Board finds that the applicant would have enlisted for 6 rather than 4 years if he had been properly counseled about this SRB opportunity.

6. Accordingly, the application should be granted.

ORDER

The application to correct the military record of BM2
, USCG, is granted. His record shall be corrected to show that he reenlisted on
January 26, 1999 for six years for an SRB with an appropriate multiple. The Coast
Guard shall pay the applicant the amount that is due him as a result of this correction.

