


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2000-006

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 October 7, 1999, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated July 26, 2000, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant, a xxxxxxxxx on active duty in the Coast Guard, asked the Board to correct his military record to show that he reenlisted on February 1, 1996, for a term of 4 years. He alleged that the correction would entitle him to receive a Zone A selective reenlistment bonus (SRB)¹ for 23 months of newly obligated service, pursuant to ALDIST 250/96. In the alternative, he asked the Board to correct his record to show that he reenlisted for the maximum allowable time in May 1997 to receive an SRB.

APPLICANT'S ALLEGATIONS

The applicant alleged that, pursuant to Coast Guard regulations, he should have been counseled concerning his eligibility for an SRB during the three months prior to

¹ SRBs vary according to the length of each member's active duty service, the length of the period of reenlistment or extension of enlistment, and the need of the Coast Guard for personnel with the member's particular skills. Coast Guard members who have served between 21 months and 6 years on active duty are in "Zone A," while those who have more than 6 but less than 10 years of active duty service are in "Zone B." On February 1, 1996, the applicant was still in Zone A; by May 1997, he was in Zone B. Members may not receive more than one bonus per zone.

his sixth active duty anniversary, which fell on February 26, 1996. He alleged that he was not properly counseled and that, if he had been properly counseled, he would have reenlisted for a term of 4 years on February 1, 1996, in order to receive an SRB calculated with a multiple of one under ALDIST 250/96.

The applicant also alleged that in May 1997, when he was required to extend or reenlist to obligate at least 2 years and 9 months more service to accept transfer orders, he wanted to reenlist for 3 years to be eligible for an SRB. However, he alleged, his yeoman told him he could not reenlist for 3 years because High Year Tenure (HYT) was in effect. Later, he learned that ALDIST 054/97 had suspended the provision of HYT that would have prevented him from obligating 3 more years. He alleged that if his yeoman had not misadvised him, he would have reenlisted for the maximum allowable time to receive "the full SRB" in effect for his rating.

SUMMARY OF THE RECORD

On February 26, 1990, the applicant enlisted in the Coast Guard for a term of four years. On February 25, 1994, he reenlisted for a second term of four years, through February 24, 1998. Therefore, his sixth anniversary on active duty fell on February 26, 1996. There is no documentation of SRB counseling in the applicant's record for the three-month period prior to his sixth active duty anniversary.

On May 29, 1997, the applicant extended his enlistment for 2 years and 9 months in order to accept transfer orders.

VIEWS OF THE COAST GUARD

On April 19, 2000, the Chief Counsel of the Coast Guard issued an advisory opinion in which he recommended that the Board deny the applicant's request.

The Chief Counsel stated that ALDIST 250/96 did not go into effect until December 1, 1996. Therefore, the applicant's sixth active duty anniversary occurred nine months before ALDIST 250/96 authorized an SRB for the applicant's rating.

The Chief Counsel further stated that the SRBs in effect at the time of the applicant's sixth active duty anniversary in February 1996 were authorized by ALDIST 069/95. That ALDIST, he stated, did not authorize an SRB for members in the RD rating.

Therefore, the Chief Counsel argued, any failure to counsel the applicant concerning SRBs prior to his sixth active duty anniversary constituted harmless error because he was not eligible for an SRB under the ALDIST in effect at the time.

The Chief Counsel did not address the applicant's alternative request for relief.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 21, 2000, the BCMR sent a copy of the Coast Guard's advisory opinion to the applicant and invited him to respond within 15 days. The applicant did not respond.

APPLICABLE REGULATIONS

Section 3.d.9. of Enclosure (1) to COMDTINST 7220.33 (Reenlistment Bonus Programs Administration) states 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, of C SRB respectively.

Enclosure (3) to the instruction states that during the three months prior to their 6th, 10th, and 14th anniversary dates, members must be counseled concerning their eligibility for an SRB. The counseling must be memorialized in their records with a Form CG-3307 signed by the member.

ALDIST 069/95, issued on April 19, 1995, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments before November 30, 1996. No Zone A SRB was in effect for members in the xx rating under this ALDIST.

ALDIST 250/96, issued on November 21, 1996, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments between December 1, 1996, and June 30, 1997. The multiple to be used for calculating Zone A SRBs for members in the xx rating was one. No Zone B SRBs were authorized.

Article 12-D-6.c.(3) of the Personnel Manual provides that members, such as the applicant, in pay grade E-4 may not reenlist or extend their service beyond 10 years and 1 month of active military service. Article 12-D-6.e.(1) states that this "HYT policy takes precedent over other policies involving reenlistment or extension opportunities" unless an HYT waiver is granted. Article 12-D-6.i.(1) provides that a member in pay grade E-4 must submit a request for waiver of HYT policy "6 to 12 months prior to the member's PGP [professional growth point] date."

ALDIST 054/97, issued on March 13, 1997, provided that, because of personnel shortages, all requests for waivers from the PGP requirements of the HYT rules in Article 12.D.6. of the Personnel Manual would be considered for approval "irrespective of the date in which the member is scheduled to depart."

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 alleged that he was not properly counseled about his eligibility for an SRB prior to his sixth active duty anniversary on February 26, 1996. He alleged that, had he been properly counseled, he would have reenlisted to receive an SRB under ALDIST 250/96.

3. ALDIST 250/96 was not issued and did not go into effect until several months after the applicant's sixth active duty anniversary. ALDIST 069/95, which was in effect at the time of his sixth active duty anniversary, did not authorize an SRB for members in the xx rating. Therefore, the Coast Guard's failure to counsel the applicant concerning SRBs during the 3 months before his sixth active duty anniversary was harmless.

4. The applicant alleged that when he extended his enlistment in May 1997, he should have been allowed to reenlist for more than 2 years and 9 months to receive the maximum allowable SRB under ALDIST 250/96. He alleged that if his yeoman had counseled him properly concerning ALDIST 054/97, he would have requested and been granted a waiver so that he could reenlist to receive a maximum SRB.

5. In May 1997, the applicant was in Zone B because he had more than 6 but fewer than 10 years of active service. ALDIST 250/96 did not authorize any Zone B SRBs in the applicant's rating. Therefore, correcting the applicant's record to lengthen the amount of service he obligated in May 1997 would not make him eligible to receive an SRB. Moreover, he has not proved that a waiver would have been granted had he requested one under ALDIST 054/97.

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

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application for correction of the military record of XXXXXXXXXXX, USCG, is hereby denied.

