


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2000-015

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 November 2, 1999, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated June 8, 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 boatswain's mate second class (BM2), asked the Board to correct his military record to show that he reenlisted for six years on his sixth anniversary on active duty, September 24, 1997. The correction would entitle him to receive a Zone A selective reenlistment bonus (SRB)¹ pursuant to ALDIST 135/97.

APPLICANT'S ALLEGATIONS

The applicant alleged that he was never counseled during the three months prior to his sixth active duty anniversary concerning his eligibility for an SRB under ALDIST 135/97. He alleged that Coast Guard regulations entitled him to such counseling and that if he had received it, he would have reenlisted for six years to get the maximum possible SRB for his rating.

¹ SRBs vary according to the length of each member's active service, the amount of newly obligated service, and the need of the Coast Guard for personnel with the member's particular skills. Members who have served between 21 months and 6 years on active duty are in "Zone A," while those who have served more than 6 but less than 10 years are in "Zone B." Members may not receive more than one bonus per zone.

SUMMARY OF THE RECORD

On September 24, 1991, the applicant enlisted in the Coast Guard for four years. On July 20, 1994, he extended his enlistment for one year and eleven months, through August 23, 1997, to obligate sufficient service for accepting transfer orders. On March 3, 1997, the applicant reenlisted for a term of four years, through March 2, 2001.

The applicant's sixth anniversary on active duty fell on September 24, 1997. There is no record of any SRB counseling in 1997 in his record. However, it contains many entries citing superb performance of duty.

VIEWS OF THE COAST GUARD

On April 20, 2000, the Chief Counsel of the Coast Guard recommended that the Board grant the applicant's request.

The Chief Counsel stated that the applicant's record supports his allegation that he was never properly counseled concerning his "entitlement" to reenlist on his sixth anniversary to receive an SRB. Moreover, the Chief Counsel argued, the applicant took prompt action upon discovering the error and is offering to obligate himself to additional years of duty in consideration for the SRB.

APPLICANT'S RESPONSE TO THE VIEWS OF THE COAST GUARD

On April 26, 2000, the BCMR sent the applicant a copy of the Chief Counsel's recommendation 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, or C SRB respectively.

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."

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 135/97, issued in June 5, 1997, established SRBs for personnel in certain skill ratings who reenlisted or extended their enlistments between July 1, 1997, and September 30, 1997. The multiple to be used for calculating SRBs for members in the BM2 rating was one.

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 to receive an SRB by requesting discharge and reenlistment during the three months prior to his sixth anniversary on active duty. He alleged that, had he been properly counseled, he would have reenlisted for six years to become eligible for the maximum possible SRB.

3. Under Enclosure (3) to Commandant Instruction 7220.33, the applicant had a right to be counseled concerning SRBs prior to his sixth active duty anniversary on September 24, 1997. There is no evidence that the Coast Guard counseled the applicant concerning his eligibility for an SRB during the three months prior to that date. Had he been so counseled, a Form CG-3307 should appear in his record, but there is none.

4. Under Section 3.d.(9) of Enclosure (1) to the instruction, the applicant was eligible to be discharged on September 24, 1997, his sixth active duty anniversary, and immediately reenlisted to qualify for a Zone A SRB. Under ALDIST 135/97, he would have received a Zone A SRB with a multiple of 1 for his newly obligated service.

5. The Coast Guard erred by not properly counseling the applicant concerning his eligibility for an SRB on his sixth active duty anniversary. Had he been properly counseled, the Board is persuaded that he would have reenlisted for six years to receive the maximum possible SRB, subject to reduction for the remaining obligated service on his previous enlistment.

6. Therefore, the applicant's request should be granted.

[ORDER AND SIGNATURES APPEAR ON NEXT PAGE]

ORDER

The application of _____, USCG, for correction of his military record is hereby granted.

His record shall be changed to show that on his sixth active duty anniversary, September 24, 1997, he was discharged and immediately reenlisted for a period of 6 years for the purpose of obtaining a Zone A SRB under the provisions of ALDIST 135/97.

The Coast Guard shall pay the applicant the sum he is due as a result of this correction.

