

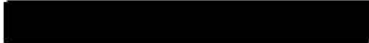
DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of  
Coast Guard Record of:

XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

BCMR Docket  
No. 2000-186

FINAL DECISION

  
The applicant, a food specialist third class (FS3; pay grade E-4), asked the Board to cancel the six-year reenlistment contract he signed on March 23, 2000 and replace it with a short-term extension possibly making him eligible for a Zone B SRB, if one is offered upon the termination of his extended enlistment. The applicant entered into the six-year reenlistment on March 23, 2000 to accept permanent change of station (PCS) orders. He was promised a Zone B SRB for this reenlistment; however, he was not eligible for the SRB because he was not serving in pay grade E-5.

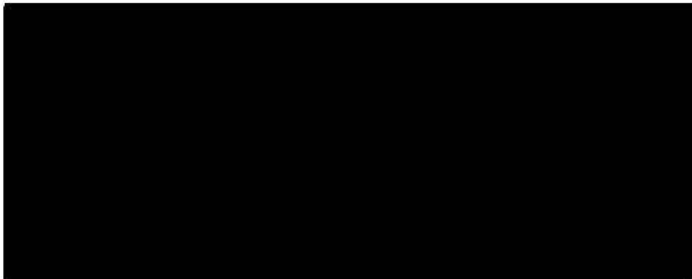
The Chief Counsel stated that the Coast Guard committed an error by promising the applicant a Zone B SRB for which he was not eligible when he reenlisted for six years on March 23, 2000. To rectify this situation, the Chief Counsel recommended that the Board cancel the March 23, 2000 reenlistment contract and replace it with a 14-month extension, which would have been the minimum period of additional obligated service required in order for the applicant to have accepted PCS orders. This corrective action would allow the applicant to take advantage of a Zone B SRB at the expiration of the 14-month extension if one is offered. The applicant did not submit a reply to the advisory opinion.

**FINDINGS AND CONCLUSIONS**

The Board agrees with the comments and recommendation of the Chief Counsel of the Coast Guard and finds that the Coast Guard incorrectly advised the applicant about his eligibility for an SRB on March 23, 2000. Accordingly, the applicant's request for relief should be granted.

**ORDER**

The application of xxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is granted. His record shall be corrected to show that on March 23, 2000, he extended his enlistment for one year and two months. At the end of this extension period, the applicant shall be given the option of reenlisting in the Coast Guard. The reenlistment contract he signed on March 23, 2000, is null and void.



Date: \_\_\_\_\_

Final Decision in BCMR Docket No. 2000-186

DECISION CONCURRING IN RESULT ONLY

\_\_\_\_\_

The record supports the applicant's claim for relief. Therefore, I concur in the result only, as reached by the other members of the Board.

However, I am of the view that the Board has not complied with its regulations requiring exhaustion of administrative remedies. This separate decision is intended to call the Board's attention to that concern. I am of the further view that COMDTINST 1070.10C, as presently read and implemented, does not well and efficiently serve Coast Guard personnel. This separate decision also is intended to call attention to that concern. Both concerns are commended, respectfully, to the Chief Counsel of the Coast Guard and the Acting General Counsel by copy hereof.

The administrative error (conceded by the Chief Counsel of the Coast Guard in his advisory opinion) occurred 23 March 2000, the applicant found the error 15 July 2000 and the applicant submitted his application (DD Form 149) 8 August 2000. Since all dates fall within a one year period, COMDTINST 1070.10C prescribes that initial responsibility for the application lay with the Personnel Records Review Board (PRRB). The PRRB's mission is "to recommend appropriate action on applications for correction or relief from error in the records of Coast Guard personnel." Selective reenlistment bonuses of enlisted personnel are not excluded from PRRB jurisdiction.

In instances of correction leading to full relief in the form of retroactive payment where incentive pay has been delayed due to administrative error or oversight, the Congress spoke in 1988.

Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and



allowances was delayed in vesting solely because of an administrative error or oversight.

(14 U.S.C. §513)

The accompanying legislative report contained two crucial sentences on point.

. . . Current procedure requires cases involving retroactive pay to be forwarded to the Board For Correction of Military Records. The new provision will permit relief to be granted in cases reviewed by the Personnel Records Review Board.

(House Rep. No. 100-154 on H.R. 2342 at 28)

The Board's regulations state, in pertinent part:

No application shall be considered by the Board until the applicant has exhausted all effective administrative remedies . . .

(33 CFR §52.13(b))

COMDTINST 1070.10C and the PRRB constitute effective administrative remedies in the instance of the application at hand.



