

**DEPARTMENT OF HOMELAND SECURITY
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2003-141

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 September 29, 2003, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated June 30, 2004, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST AND ALLEGATIONS

The applicant asked the Board to correct her military record to make her entitled to a Zone A selective reenlistment bonus (SRB)¹ with a multiple of 2.5 instead of the 2.0 multiple she actually received. She alleged that upon reenlisting on June 3, 2003, she was promised an SRB with a multiple of 2.5. However, after reenlisting she was paid a Zone A SRB with a multiple of 2 because the higher 2.5 multiple did not become effective until July 1, 2003. The applicant alleged that had she known that the additional .5 multiple (authorized for certain competency codes) was not available until July 1, 2003, she would have delayed her reenlistment until that date to obtain the additional multiple.

In support of her allegations, she submitted a copy of her reenlistment contract showing that she was promised a Zone A SRB with a multiple of 2.5.

¹ SRBs vary according to the length of each member's active duty service, the number of months of service newly obligated by the reenlistment or extension of enlistment contract, and the need of the Coast Guard for personnel with the member's particular skills, which is reflected in the "multiple" of the SRB authorized for the member's skill/rating, which is published in an ALCOAST. Coast Guard members who have less than 6 of active duty service are in "Zone A." Article 3.C., Coast Guard Personnel Manual.

SUMMARY OF THE RECORD

On July 7, 1998, the applicant enlisted in the Coast Guard for a term of four years and has served continuously since that time. On October 16, 2002, she extended her enlistment for five months, and on December 6, 2002, she extended for six months, obligating service until June 6, 2003. Her most recent reenlistment occurred on June 3, 2003, for three years, wherein she was promised the Zone A SRB with a multiple of 2.5.

VIEWS OF THE COAST GUARD

On February 2, 2004, the Judge Advocate General (TJAG) submitted an advisory opinion. TJAG stated that when the applicant reenlisted on June 3, 2003, there was no authority to pay a Zone A multiple of 2.5. AICOAST 182/03, which authorized the additional .5 multiple, did not become effective until July 1, 2003. The applicant was advised on a December 6, 2002 administrative remarks (page 7) page that she was entitled to a Zone A SRB with a multiple of 2. However, TJAG admitted that on her reenlistment contract the applicant was erroneously promised a multiple of 2.5. (The military record also contains a page 7 dated May 30, 2003, advising the applicant that she was entitled to a multiple of 2.5.) TJAG stated that since the applicant's enlistment was due to expire on June 6, 2003, she could not have waited until July 1, 2003 to reenlist.

TJAG stated that in an effort to afford the applicant a result that most closely represents the bargain she claimed, the Coast Guard recommended that the Board offer her two options:

First, Applicant could have her record corrected by voiding her reenlistment contract dated 3 June 2003 and subsequently extending her period of service until the BCMR final decision. Applicant could then be discharged if she so desires. Under this option the applicant would be liable to the Coast Guard for her unearned SRB payments. The second option would be to have the Board correct her record to show the actual SRB multiple of "2" to which she was entitled and the correct authority for that multiple.

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On February 4, 2004, a copy of the Coast Guard's views was mailed to the applicant for her response. On March 11, 2004, she requested and was granted a 30-day extension to reply to the views of the Coast Guard, but she did not submit a reply.

APPLICABLE REGULATIONS

Coast Guard Personnel Manual

Article 1.G.14.a.2. of the Personnel Manual provides that a member may extend his reenlistment “[f]or any number of full years and/or full months up to six years to ensure sufficient obligated service [OBLISERV] for these purposes:

- "a. Attend a resident school.
- "b. Participate in the Coast Guard Tuition Program.
- "c. **INCONUS and OUTCONUS** assignments; . . .
- "d. **Advance to E-7, E-8, or E-9**; . . .
- "e. Meet an approved retirement date."

Article 1.G.14.a.4. provides that the Commander, Coast Guard Personnel Command may authorize an extension for one year or other such period in specific cases.

Article 3.C.3 (Written Agreements) states that "all personnel with 10 years or less active service who reenlist or extend for any period, however brief, shall be counseled on the SRB program."

Article 3.C.6. (Change in Multiple) states the following:

All Agreements to Extend Enlistments signed before the effective date of the change will be at the old multiple level. All agreements made on or after the effective date of the change will be at the new level. Members desiring to extend their enlistments or reenlist early to take advantage of a higher bonus multiple may do so within the provisions of this chapter and or Articles 1.G.14 and 12.B.7 [of this instruction].

Pertinent ALCOASTS

ALCOAST 182/03 was issued on April 24, 2003, and became effective on July 1, 2003. It established SRB multiples for personnel in certain skill ratings who reenlisted or extended their enlistments for at least three years and up to six years. Under ALCOAST 182/03, BM2s were eligible for a Zone A SRB calculated with a multiple of two and was entitled to an additional .5 multiple for having certain competency codes.

ALCOAST 329/02 was issued on July 3, 2002 and was effective from August 5, 2002 through June 30, 2003. It established a multiple of 2 for BM2s and above but did not authorize the additional .5 for having certain competency codes.

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 10 U.S.C. § 1552. The application was timely.

2. When the applicant reenlisted on June 3, 2003, her then enlistment was due to expire on June 6, 2003. Therefore, she was required either to extend her enlistment or to reenlist by the expiration date of her then current enlistment or she would have been discharged from the Coast Guard. ALCOAST 329/02 was in effect on June 3, 2003, and it only authorized a multiple of 2 for BM2s, like the applicant. According to Article 3.6.C. of the Personnel Manual, the applicant was not eligible for the additional .5 SRB multiple because ALCOAST 182/03, which authorized the additional multiple, did not become effective until July 1, 2003.

3. The applicant claimed that if she had known on June 3, 2003, that ALCOAST 182/03 would not become effective until July 1, 2003, she would have waited and reenlisted on July 1, 2003. To do so, the applicant would have been required to execute a short-term (one month) extension, which was not authorized under the circumstances of her case.

4. In this regard, the Board notes that Chapter 3.C.6 (Selective Reenlistment Bonus) of the Personnel Manual states that "members desiring to extend their enlistments . . . to take advantage of a higher bonus multiple may do so within the provisions . . . of Article 1.G.14. [of the Personnel Manual]." On June 3, 2003, the applicant would not have been permitted to execute a one-month extension of her enlistment because she did not meet the requirements of Article 1.G.14.a.2. of the Personnel Manual. This provision authorizes extensions of enlistment for a period of months only for the purpose of attending school, participating in Coast Guard Tuition Assistance Program, transferring to a new assignment, advancing to E7, E-8, or E-9, or meeting an approved retirement date. The applicant was in none of these situations on June 3, 2003. She was, however, near the end of her then current enlistment, which was June 6, 2003, and she was required either to reenlist for a minimum of three years or extend her enlistment for a minimum of two years, or she would have been discharged from the Coast Guard.

5. The applicant received the SRB multiple that was authorized for her rating under ALCOAST 329/02 at the time she reenlisted. She has, however, presented evidence showing that on June 3, 2003, she was improperly promised a Zone A SRB with a multiple of 2.5. When an applicant proves that she has received improper SRB counseling and the record cannot be corrected without offending the regulation, the Board's policy is to return the applicant to the position she would have been in had she been properly counseled.

6. Therefore, if the applicant had been properly counseled in June 2003, she would have been told that, under ALCOAST 329/02 she was eligible only for a multiple of 2, which is what she received. She would have been further advised that she could not extend for a one-month period to take advantage of the higher SRB multiple that became effective on July 1, 2003, because such short-term extensions solely for the purpose of obtaining a higher SRB multiple are not permitted under the Personnel Manual. The applicant was paid an SRB multiple of 2 in accordance with the ALOCAST in effect at the time she reenlisted. She is by regulation entitled to no more.

7. In cases where improper counseling has occurred, the Board has allowed a member the option of voiding the reenlistment contract containing the erroneous promise and being discharged from the Coast Guard. The Board will direct that the applicant be provided with this option. The Board does not find any other relief to be warranted or necessary in this case.

8. Accordingly, the applicant is entitled to the limited relief discussed above.

ORDER

The application of XXXXXXXXXXXXXXXXXXXX, USCG, for correction of her military record is denied. However, at her option, the applicant shall be given the opportunity of having the June 3, 2003, reenlistment contract voided and of being discharged from the Coast Guard. If the applicant chooses to be discharged, she shall make such decision within 30 days from the date of this order, and her record shall show an extension of enlistment from June 6, 2003, until the date of her discharge.



