


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

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2004-039

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

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 December 8, 2003, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated September 9, 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 his military record to make him entitled to a Zone B selective reenlistment bonus (SRB)¹ with a multiple of 2.5 instead of the 2.0 multiple he actually received. He alleged that upon reenlisting on June 12, 2003, he was advised that he would receive an SRB multiple of 2.5. However, after reenlisting he was paid a Zone B 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 he known that the additional .5 multiple (authorized for having certain competency codes) was not available until July 1, 2003, he would have reenlisted on that date.

In support of his allegations, he submitted a copy of his reenlistment contract showing that he was promised a Zone B SRB with a multiple 2.5. He also submitted a

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 at least 6 but no more than 10 years of active duty service are in "Zone B." Article 3.C., Coast Guard Personnel Manual.

copy of an administrative remarks (page 7) page advising him that he was eligible to reenlist for six years and to receive an SRB multiple of 2.5 under ALCOAST 182/03.

SUMMARY OF THE RECORD

On August 31, 1993, the applicant enlisted in the Coast Guard for a term of four years and has served continuously since that time. On July 11, 1997, he reenlisted for six years that obligated service through July 10, 2003. His most recent reenlistment occurred on June 12, 2003 for six years, wherein he was promised the Zone B SRB with a multiple of 2.5.

VIEWS OF THE COAST GUARD

On March 15, 2004, the Judge Advocate General (TJAG) of the Coast Guard recommended that the Board grant the following relief: (1) void the June 12, 2003 reenlistment contract and replace it with a one year extension, and (2) reenlist the applicant on July 2, 2003 for six years, which would make him eligible for the 2.5 SRB multiple.

In recommending the above relief, TJAG stated the following:

The record . . . documents that miscounseling . . . At the time of the counseling ALCOAST 182/03 was the effective SRB instruction and on 1 July 2003 contained an additional multiple of .5 for BM's with coxswain qualifications. The Coast Guard's Personnel Manual, . . . (Chapter 4.B.6.a.2) states that personnel E-4 and above with over six years of active duty are considered to be in a career status and are required to have one year of OBLISERV remaining upon reporting to the new unit. The Applicant reported to Activities New York on 1 July 2003. If the applicant had been properly counseled, it would be reasonable to assume that he would have extended for one (01) year to meet the obligated service requirement to accept his orders and prior to the effective date of the extension [July 11, 2003] he would have reenlisted for the Zone B SRB multiple of [2.5] that he was promised. The Board should grant the relief because the record demonstrates that the Applicant intended to further obligate himself for an SRB.

APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS

On March 29, 2004, the applicant responded that he accepted the Coast Guard's recommendation.

APPLICABLE REGULATIONS

Coast Guard Personnel Manual

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.5.6 (special conditions pertaining to SRB entitlements) states the following:

Extensions previously executed by members may be canceled prior to their operative date for the purpose of executing a longer extension or reenlistment . . . An exception to the rule is made for extensions of 2 years or less, or multiple extensions (each of which is two years or less in length), required of a member for transfer, training, advancement, or tuition assistance. These extensions may be canceled prior to their operation date for the purpose of immediate reenlistment or longer extension without any loss or SRB entitlement.

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, BMs were eligible for a Zone B SRB calculated with a multiple of two and was entitled to an additional .5 multiple for having certain boat 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 BMs 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 for six years on June 12, 2003, his then current six-year reenlistment was due expire on July 10, 2003. He was incorrectly promised a Zone B SRB with a multiple of 2.5 under ALCOAST 182/03, which did not become

effective until July 1, 2003. According to the SRB regulation, the applicant was entitled to the SRB multiple in effect at the time he reenlisted.

3. This applicant's situation was somewhat unique. His then current enlistment did not expire until July 10, 2003. Therefore he had until that date to reenlist but for the fact that he was required to commit to an additional year of service to execute PCS orders prior to July 1, 2003, the date he was to report to his new unit. Article 4.B.6.a.2. of the Personnel Manual states, "Personnel E-4 and above with over six years of active duty are considered to be in a career status. Unless otherwise indicated, they are required to have one year of OBLISERV [obligated service] remaining upon reporting to the new unit." The applicant completed his sixth year of active duty on August 30, 1999, and therefore, he was required to have only one year of service remaining on his enlistment when he reported to his new duty station on July 1, 2003. Instead of reenlisting for six years, he could have extended for one year.

4. The Board is persuaded that the applicant was given erroneous guidance about the amount of his SRB multiple when he reenlisted on June 12, 2003, as evidenced by a page 7 entry and his reenlistment contract. This erroneous action on the part of a Coast Guard official caused the applicant to believe he was entitled to a SRB multiple of 2.5 based on six years of service.

5. The Board's policy in cases of erroneous counseling is to place the applicant in the position that he would have been in if he had been properly counseled. Therefore, if the applicant had been properly counseled, he would have been told that, under ALCOAST 329/02 he was eligible only for a multiple of 2. However, he would have also been told that he could extend his enlistment for one year because he was only required to have one year of service remaining upon reporting to his new unit. He would have been further advised that since the operative date for the extension was July 11, 2003, he could cancel the extension after July 1, 2003, and prior to July 11, 2003 and reenlist for a longer period to obtain the desired SRB multiple without a penalty. See Article 3.C.5.6. of the Personnel Manual. Accordingly, the Coast Guard committed an error by providing erroneous SRB counseling to the applicant.

6. The Board finds that the following relief recommended by the Coast Guard and accepted by the applicant is fair and just under the circumstances of this case: (1) void the June 12, 2003 reenlistment contract and replace it with a one year extension, and (2) on July 2, 2003 cancel the one year extension and reenlist the applicant for six years, making him eligible for the 2.5 SRB multiple.

7. Accordingly, the applicant is entitled to relief.

[ORDER AND SIGNATURES ON NEXT PAGE]

ORDER

The application of XXXXXXXXXXXXXXX, USCG, for correction of his military record is granted. His record shall be corrected as follows: (1) the June 12, 2003, reenlistment contract shall be replaced with a one-year extension. On July 2, 2003, the one year extension shall be canceled and the applicant shall be reenlisted for six years, making him eligible for the 2.5 SRB multiple under ALCOAST 182/03. No SRB penalty shall apply under this order. The Coast Guard shall pay the applicant the amount he is due as a result of this correction.

