

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for the Correction of
the Coast Guard Record of:

BCMR Docket No. 2000-090



FINAL DECISION

Chairman:

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 March 15, 2000, upon the BCMR's receipt of the applicant's complete request for correction.

This final decision, dated January 4, 2001, is signed by the three duly appointed members who were designated to serve as the Board in this case.

APPLICANT'S REQUEST FOR RELIEF

The applicant, a retired [REDACTED] pay grade E-4), asked the Board to correct his record so that he could enter the Air National Guard.

On November 5, 1995, the findings of the Central Physical Evaluation Board (CPEB) with respect to the applicant were approved, and the applicant was placed on the temporary disabled retirement list (TDRL). He had been found "Not Fit for Full Duty."

On May 25, 1999, the CPEB sent revised findings and recommendations of the Physical Evaluation Board (PEB) to the Commander of the Coast Guard Personnel Command (CGPC) who approved them on May 27, 1999. The Physical Evaluation Board (PEB) found that the applicant was fit for full duty as an [REDACTED] [REDACTED] third class, and recommended that he be removed from the TDRL and either reenlisted or discharged. He was removed from the TDRL on June 14, 1999.

In his application for correction, the applicant stated that "I served my country well even with the illness, when it was present."

VIEWS OF THE COAST GUARD

On June 27, 2000, the Commander of CGPC concluded that the applicant's reenlistment code was incorrect. He recommended that relief be granted to the applicant. He recommended that "applicant's DD-214 be changed to reflect RE-3P." RE-3P means eligible for reenlistment except for disqualifying factor: physical disability (includes discharge, transfer to TDRL).

On September 21, 2000, the Chief Counsel of the Coast Guard issued an advisory opinion recommending that the Board grant the applicant more relief than CGPC recommended. The Chief Counsel recommended that the Board change the applicant's reenlistment code from RE-2 to RE-1 (eligible for reenlistment).

The Chief Counsel adopted the analysis and comments of CGPC. The advisory opinion of the Coast Guard consists of CGPC's comments and the Chief Counsel's recommendation.

SUMMARY OF RECORD

The applicant enlisted in the Coast Guard on November 6, 1990. On February 16, 1993, he was promoted to [REDACTED] (E-4).

On June 21, 1995, a medical board found him "not fit for full duty". His command concurred and wrote CGPC recommending him for a medical discharge. On November 2, 1995, the applicant was placed on the TDRL. He was issued a discharge certificate (DD-214) with an SFK retirement code (mandatory retirement required by law due to temporary physical disability) and a reenlistment code of RE-2 (ineligible for reenlistment because of status: retired (except to transfer to TDRL)).

On March 3, 1999, the CPEB reviewed the applicant's medical state. His medical record in 1999 showed him "fit for full duty" and no longer suffering the impairment for which he had been placed on the TDRL. The findings of the Medical Board were approved, the applicant was certified for full duty, and he was given the option to reenlist or to be discharged. He chose discharge.

APPLICANT'S RESPONSE TO COAST GUARD'S VIEWS

On September 22, 2000, a copy of the Coast Guard views was sent to the applicant together with an invitation to submit a response within 15 days.

No response was received from the applicant.

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 of the United States Code. This application was timely.
2. In 1995, the applicant was found not fit for full duty and placed on the temporary disabled retirement list.
3. On March 3, 1999, a medical board reached a different finding. It found that the impairment which had caused him to be placed on the TDRL in 1995 was resolved. It found him fit for full duty. Prior to this finding, his reenlistment code was RE-2 (ineligible for reenlistment because of status: retired (except to transfer to TDRL)).
4. Upon being found fit for full duty, the applicant requested that his RE-2 reenlistment code be upgraded so that he might enlist in the Air National Guard.
5. CGPC erred in recommending that the RE-2 code be changed to RE-3P because RE3-P makes reenlistment contingent upon a showing that applicant does not suffer from the disqualifying factor of physical disability. The CPEB has already determined that the applicant is fit for full duty. No further proof should be required.
6. The Chief Counsel of the Coast Guard was correct in recommending that the applicant's code retain no limitations on reenlistment but reflect the reality that he is already eligible for reenlistment since he has been found fit for full duty.
7. Accordingly, the applicant's reenlistment code should be changed to RE-1 (eligible for reenlistment).

ORDER

The application to correct the military record of [REDACTED] [REDACTED] is granted by changing his reenlistment code to RE-1 with a Separation Program Designator (SPD) code of KND (convenience of the government).

