

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

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 146-96

FINAL DECISION

██████████ Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on August 15, 1996, upon the receipt by the BCMR of the applicant's request for correction of his military record.¹

This final decision, dated August 15, 1997, was signed by three duly appointed members who were designated to serve as the Board in this case.

Application for Relief

The applicant is a seaman (SN; pay grade E-3) on active duty.

On August 15, 1996, she alleged that she was informed upon enlistment that she would receive Montgomery G.I. Bill benefits at the end of her enlistment, and that those benefits would total \$14,400 in a lump sum. She alleged also that the Coast Guard promised that it would provide her with 75% tuition coverage towards college courses.

Notwithstanding the alleged promises, the applicant was later told that tuition assistance wasn't available "due to the lack of funding." She also learned that "the Montgomery G.I. Bill is allocated in monthly increments depending on the course load, and not in a lump sum." She alleged that these deceptions were

¹ The application was complete on July 5, 1996, with the BCMR's receipt of the applicant's military record.

deliberate, as a means to persuade her to sign a four-year enlistment term.

On January 22, 1996, the applicant requested an early release from active duty, due to hardship. She said that since her initial reasons for enlisting (education) can not be met, a discharge should be processed as soon as possible.

On August 15, 1996, she asked the Board to grant her an "honorable discharge." She stated that she wants "to discontinue [her] service to the U.S. Coast Guard" because she based her entire educational and career goals on these alleged promises, as to which the Coast Guard deliberately deceived her.

Her submissions included letters of support from both United States Senators from Maryland, Paul Sarbanes and Barbara Mikulski. She also submitted the following statements from her officer in charge ("I feel that it might be in our best interests to release her from active duty. Although she did not state it in her request, she is willing to forego all G.I. Bill benefits she would be entitled to upon discharge if necessary.") She also submitted the following statement from her commander in Baltimore ("The Coast Guard would benefit by authorizing her discharge she has not received any specialized training above that provided at basic training The loss of her services would not adversely affect the unit's ability to carry out its operational missions Cutting the organization's losses by authorizing her discharge at the present time would be in the best interests of both parties, the Coast Guard and the individual.")

Views of the Coast Guard

On July 23, 1997, the Chief Counsel of the Coast Guard recommended to the BCMR that it deny relief to the applicant. The Chief Counsel said that the applicant had not made a prima facie showing of error or injustice.

The applicant claimed she was informed that her Montgomery GI Bill would be provided in a lump sum payment of \$14,400. She also claimed that the Coast Guard would pay her 75% of her tuition costs while in the Service. In late September 1994, the applicant and the Coast Guard signed a "statement of understanding" with respect to the Montgomery GI Bill that contained very different provisions. Paragraph 5 of the statement of understanding provided that "effective 1 October 1991, monthly benefits for a full time student who is not on active duty will be \$350.00." The statement of understanding made no mention of the benefits the applicant claimed: a lump-sum option for MGIB benefits, tuition assistance, and the right to pursue education while on active duty.

The Chief Counsel stated that the applicant was informed, by the statement of understanding, that monthly benefits were the only available MGIB benefits. She alleged that the Coast Guard gave her "falsified information" as to available benefits, but she did not submit any substantial evidence in support of this error or injustice. The Service also said that "[a]bsent strong evidence to the contrary, Coast Guard officials such as recruiters are presumed to execute their duties correctly, lawfully, and in good faith."

Response of the Applicant to the Views of the Coast Guard

A copy of the advisory opinion of the Coast Guard was sent to the applicant on July 24, 1997, with an invitation to her to respond to the views of the Service. The BCMR said that "[i]f you have no objection to the Coast Guard's views, please notify the Board in writing that your case is ready for decision." On August 1, 1997, the BCMR received a response from the applicant who said that she had no further comment and wanted her case processed for final decision.

FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the submissions of the applicant and the Coast Guard, the military record of the applicant, and applicable law:

1. The Board has jurisdiction to determine the issues in this proceeding under section 1552 of title 10, United States Code. The application was timely.
2. The applicant enlisted in the Coast Guard for four years on September 26, 1994. Prior to enlisting, she signed a statement of understanding stating that she was eligible to participate in the Montgomery GI Bill.
3. The applicant claimed that she was entitled to \$14,400 lump sum benefit, 75% tuition coverage toward college courses, and time to study while on active duty.
4. According to the statement of understanding, she was not entitled to any lump sum benefit payment, tuition assistance, or the right to be given time to pursue education while on active duty. She was entitled only to monthly MGIB benefits of \$350 for a full time student.
5. The applicant has not proved that she was "deliberately deceived" inasmuch as she signed the statement of understanding, which set forth the maximum MGIB benefits. The Chief Counsel of the Coast Guard is correct in

concluding that it is more likely that the applicant misinterpreted valid information than that she was induced into enlisting by misstatements regarding educational benefits.

6. The applicant's request for an early release from active duty, due to hardship, is without merit. The fact that MGIB benefits were not awarded in a lump sum, but only in monthly increments, does not constitute a hardship.

7. The applicant has not established that the Coast Guard has committed an error or injustice. In the absence of such proof, she is not entitled to an honorable discharge until September 25, 1998.

8. Accordingly, the application should be denied.

ORDER

The application to correct the military record of
USCG is denied.

