

DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of  
Coast Guard Record of:

BCMR Docket  
No. 102-96

FINAL DECISION

██████████ Deputy Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on April 5, 1996, upon the BCMR's receipt of the applicant's request.

This final decision, dated May 23, 1997, is signed by the three duly appointed members who were designated to serve as the Board in this case .

The applicant, an ██████████; pay grade E-5), asked the BCMR to recalculate his final score for advancement to E-6, using time in rate (TIR) as an E-5 from his previous enlistment. The applicant is seeking an additional four years and five months of credit as an E-5. He also requested back pay and allowances, if his record is corrected.

**SUMMARY OF RECORDS AND SUBMISSIONS**

**Enlistment and Advancement History**

- \* May 18, 1980. Applicant enlisted in the Coast Guard.
- \* April 1, 1983. Applicant promoted to E-5 and served in that capacity for four years.
- \* September 17, 1987. Applicant honorably discharged.
- \* March 25, 1988. Applicant reenlisted as an E-3.
- \* November 16, 1988. Applicant advanced to E-4.
- \* October 1, 1989. Applicant advance to E-5.

\* January 1, 1997. Applicant advanced to E-6 (per telephone conversation from applicant).

### **Applicant Allegations**

The applicant was honorably discharged from his first enlistment on September 17, 1987. At the time of his discharge, he was an E-5 and had served on active duty for four years, five months, and 17 days. Six months after his discharge, on March 25, 1988, the applicant reenlisted in the Coast Guard as an E-3.

The applicant stated that when he first began participating in the SWE (servicewide examination) for advancement to E-6 during this current enlistment, he was counseled that TIR from his previous enlistment as an E-5 would not be included in the calculation of his final multiple for advancement. He stated that in February 1996 he discovered Article 5-C-13b.(4)(b) of the Personnel Manual. The applicant argued that this provision of the Personnel Manual entitled him to credit for TIR served as an E-5 in his previous enlistment. The applicant stated that if he had received credit for TIR from his previous enlistment he would have earned an additional 8.8 points toward his final multiple and would have advanced to E-6 sooner.

### **Views of the Coast Guard**

The Coast Guard recommended that the applicant's request be denied. The Service stated that the applicant should not be given credit for time served as an E-5 during a previous enlistment because he was reduced in rate as a condition of reenlistment after broken service. The Coast Guard quoted the following portion of Article 5-C-13b.(4)(b) of the Personnel Manual: "If a member is reduced and subsequently advanced, TIR is calculated from the date of the most recent advancement. If a member has held a higher pay grade, the time in the higher grade is not creditable toward TIR calculations for the present paygrade and is not creditable at the higher pay grade if the member is subsequently advanced." The Service stated that this policy has not changed since January 1990.

The Coast Guard cited the final decision in BCMR Docket No. 140-95 as support for its position in this case.

### **Applicant's Response to the Views of the Coast Guard**

A copy of the Coast Guard views was mailed to the applicant on March 17, 1997, and he was invited to submit a response. He did not submit a response.

### Summary of BCMR Docket No. 140-95

The applicant in Docket No. 140-95, who had a four-month break in service, asked to have time served in a previous enlistment added to the time served in his current enlistment. The BCMR made the following finding:

The applicant [in No. 140-95] asked the BCMR to give him "broken service" TIR credit for purposes of advancement for the period prior to his separation in 1979, when he was an E-5, as well as current TIR credit for the period starting in 1990 when he was an E-5.

Such credit is not authorized by the following language from Article 5-C-13b.(4) of the Personnel Manual:

.... If a member is reduced and subsequently advanced, TIR is calculated from the date of the most recent advancement.

The term "reduced," in this provision, means reduced in grade by any means, including non-judicial punishment or release from active duty or discharge, followed by reenlistment at a lower grade.

The applicant's grade [in 140-95] was reduced in 1989, when he reenlisted, from the grade he had held in 1979, when he was released from active duty. In July 1990, his grade was subsequently advanced to the grade he had held before that reduction. TIR, accordingly, should be calculated from July 1990.

### APPLICABLE REGULATION

Article 1-G-6 of the Personnel Manual states the following:

"a. A member must reenlist within 3 months from date of discharge in order to remain in a continuous service status and to receive the benefits listed below:

"(2) Time in Pay Grade in Present Rating (TIR) for Advancement. In order to receive credit for time previously served in the present grade, a member must reenlist within 3 months from date of discharge and meet the requirements contained in Article 5-C-13 of this Manual." [Emphasis in original.]

Article 5-C-13b.(4) of the Personnel Manual, which was in effect at the time the applicant became eligible to compete for advancement to E-6, stated:

Reenlistment Under Continuous Active Service and Broken Active Service Conditions.

"(a) Only time previously served in the present or higher pay grade at which the member is enlisted, in the Coast Guard . . . , under continuous active service conditions (within 3 months of separation) is creditable toward TIR for eligibility. . . .

"(b) If an individual with broken active service (out of Service over 3 months) has, in the present or higher pay grade, previously satisfactorily serving in the Coast Guard or Coast Guard Reserve on extended active duty (over 1 year), such time is creditable. However, the minimum period required. . . shall have been served during the member's present tour of active duty. If a member is reduced and subsequently advanced, TIR is calculated from the date of the most recent advancement. If a member has held a higher pay grade, the time in the higher pay grade is not creditable toward TIR calculations for the present pay grade and is not creditable at the higher pay grade if the member is subsequently advanced." [Emphasis in original]

#### 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 submission, and applicable law:

1. The Board has jurisdiction of this matter pursuant to section 1552 of title 10, United States Code. The application is timely.
2. The applicant is not entitled to TIR credit for time previously served as an E-5 during a previous enlistment. In order to receive TIR credit for the time served as an E-5 during a previous enlistment, the applicant must have reenlisted within 3 months of the date of his discharge. Article 1-G-6, Personnel Manual.
3. The applicant must also have reenlisted in the same pay grade that he held on discharge (must not have been reduced in rate). Article 5-C-13(4)(b), Personnel Manual. The applicant met neither of these requirements. He reenlisted as an SN ( seaman; E-3) rather than an [REDACTED] E-5) six months after his discharge in 1987.
4. The applicant has failed to prove that the Coast Guard committed an error or injustice in this case.
5. Accordingly, his application should be denied.

ORDER

The application of  
military record is denied.

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