

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 108-96

FINAL DECISION

██████████ Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on April 23, 1996, upon the BCMR's receipt of the applicant's request for correction of his military record.

This final decision, dated April 30, 1997, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Request for Relief

The applicant, an ██████████ ██████████ ██████████ pay grade E-6), asked for "recalculation of TIR [time in rate] and final multiple for service wide exam (SWE) . . . for advancement to E-6." The applicant served in the active duty Coast Guard from March 1980 to March 1991. He was honorably discharged at the grade of E-6 in 1991. In March 1992, he reenlisted in the Coast Guard as an E-5. In July 1995, he was advanced again to E-6.

The applicant alleged that his final multiple on his past SWEs was in error. He alleged that if it had been correctly calculated he would have received 7.1 points more and would have been promoted sooner to E-6. If his application is granted, he asks for back pay, allowances, and other relief.

Views of the Coast Guard

On March 27, 1997, the Coast Guard recommended to the BCMR that it deny relief in this case.

The Commander of the Coast Guard Personnel Command (CGPC) stated the applicant's position as follows: "Applicant was discharged from the Coast Guard in 1991 and reenlisted after an eleven month break in service. He claims

his previous time in rate should have been counted toward his servicewide exam multiples, which would have resulted in earlier promotion to E-6."

CGPC rejected this claim. It said that "[i]f a member is reduced and subsequently advanced, TIR is calculated from the date of the most recent advancement. The time prior to the reduction is lost. Only time . . . under continuous active service conditions within three months of separation is creditable toward TIR eligibility."

CGPC stated that Change 11 to the Personnel Manual (Art. 5-C-13b.(4)(b)) did not apply to this case as the applicant had not been reduced in rate as a condition of reenlistment.

The Chief Counsel of the Coast Guard said that the Service concurred with a previous related decision, BCMR 140-95, and said that "the present application is without merit for the same reasons." The Chief Counsel quoted from Art. 5-C-13-b(4)(b) that "[i]f a member is reduced and subsequently advanced, TIR is calculated from the date of the most recent advancement."

Response of the Applicant to the Views of the Coast Guard

On April 14, 1997, the applicant responded to the views of the Coast Guard. He argued that the "reduced and subsequently advanced" condition did not apply to his case. He said that the fact that he reenlisted at a lower rate "was no reduction in rate."

SUMMARY OF BCMR 140-95

The Coast Guard said that it has consistently interpreted Article 5-C-13b.(4)(b) of the Personnel Manual to mean that "a member with broken service¹ in a higher pay grade in the same rating . . . does not receive TIR credit toward the final multiple for advancement, when that member returns to active duty in a lower pay grade in the same rating." The Service said that broken service TIR in a higher pay grade is also not creditable toward the final multiple for advancement if, after return to active duty, the member is subsequently advanced. The Coast Guard accordingly said that the applicant was not entitled to credit for broken service TIR.

The Coast Guard said that it has, since October 1989, consistently excluded broken service TIR from the TIR calculation for advancement eligibility.

¹ Broken service is described in Article 5-C-13b.(4)(b) of the Personnel Manual to mean service that is interrupted by more than 90 days of separation from the Service.

It admitted that Article 5-C-13b.(4)(b) "is not a model of clarity," but it held that the qualifications in the article "effectively implement the service policy against crediting broken service TIR in a higher grade for purposes of advancement."

FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction of the case pursuant to section 1552 of title 10, United States Code.

2. The applicant was separated from active duty in the Coast Guard from March 1991 until March 1992. In 1992, he reenlisted in the Coast Guard on active duty at a paygrade lower than the one he had held when he was separated in 1991. In 1995, he was advanced to the paygrade he had held when he was separated in 1991.

3. The applicant asked the BCMR to give him TIR credit for purposes of advancement for the period prior to his separation in 1991, when he was an E-6, as well as current TIR credit for the period starting in 1995, when he was an E-6.

4. Such credit is not authorized by the following language from 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. . . .

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.

5. The applicant's grade was reduced in 1992, when he reenlisted, from the grade he had held in 1991, when he was released from active duty. In March 1995, his grade was advanced to the grade he had held before that reduction. TIR, accordingly, should be calculated from March 1995.

6. The applicant has not shown any error or injustice on the part of the Coast Guard. The application should therefore be denied.

ORDER

The application of
correction of his military record is denied.

USCG, for

