

DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 1998-104

FINAL DECISION

██████████ Chairman:

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14, United States Code. It was commenced on August 7, 1998, upon the BCMR's receipt of the applicant's request for correction of his military record.

This final decision, dated August 19, 1999, is signed by the three duly appointed members who were designated to serve as the Board in this case.

RELIEF REQUESTED

The applicant asked the Board to promote him to ██████████
██████████/E-5) retroactive to May 27, 1998. (His rate on that date was
██████████ E-4.)

As of September 1995, he had served 7 years in the active duty Coast Guard following at least 3 years in the United States Army.

On December 1, 1995, he was discharged from the Coast Guard under the high year tenure (HYT) rules. Under the applicable HYT rule, a member must be promoted to pay grade E-5 within 10 years of total service time, or he will be discharged for failure to achieve a professional growth point (PGP). To phrase it differently, HYT policy does not allow members to continue their career with the Coast Guard unless they were in pay grade E-5 at their 10-year active duty anniversary date

The applicant alleged that he participated in the May 1995 SWE (service wide examination) for ██████████ and placed ██████████ out of 111 on the examination. The cutoff for advancement, however, was "0," which meant that no one would be advanced from the list of 111 candidates.

The applicant asked for a waiver of HYT, on the ground that the cutoff in his case was "0." His request was denied, however, on the ground that no one from that list would be advanced. The applicant responded by saying that this conclusion was "grossly in error" since all "111 persons still in the USCG were advanced to [REDACTED]"

VIEWS OF THE COAST GUARD

On July 26, 1999, the Chief Counsel of the Coast Guard issued an advisory opinion recommending that the relief requested be denied.

APPLICANT'S RESPONSE TO COAST GUARD VIEWS

The Board sent a copy of the views of the Coast Guard to the applicant, together with an invitation to submit a response to the Board if the applicant disagrees with the recommendation of the Coast Guard. The response is required to be submitted within 15 days.

No response was received by the Board.

OTHER COAST GUARD OPINIONS

On September 28, 1995, the Commander of the Military Personnel Command [now Coast Guard Personnel Command (CGPC)] told the applicant that his request for a waiver of the High Year Tenure requirements had been reviewed. The requested waiver was denied, however, because it did not meet the criteria for HYT waiver. Specifically, a waiver request must be made 6 to 12 months prior to a PGP (professional growth point). COMDTINST 1040.10. "Unfortunately," according to CGPC, "your request was submitted too late to be eligible for consideration."

CGPC understood the applicant's frustration with zero cutoffs. but it said that predictions for advancements in 1995 were extremely conservative in light of downsizing efforts being planned for the near future. The memorandum concluded by saying the applicant would be separated from the Coast Guard on December 1, 1995.

SUMMARY OF BCMR RECORD

The applicant submitted a DD Form 149 (application for record correction) approximately one year after he was discharged. He also submitted the CGPC memo and ruling, a copy of the eligibility lists for the May 1995 SWE, ALCGEN; 017/96 and 027/96, and ALDIST 191/97 (temporary extension of HYT PGP).

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 and applicable law:

1. The Board has jurisdiction of this case pursuant to section 1552 of title 10, United States Code. The application was timely.

2. The applicant served more than 10 years in the Army (3) and in the Coast Guard (7) before his discharge from the Coast Guard on December 1, 1995. He was discharged for violating a professional growth point under HYT; to wit the requirement that a member be at pay grade E-5 or above after 10 years of active service.

3. The CGPC was correct in rejecting the applicant's request for a waiver of the High Year Tenure requirements. He applied late, and he had served 10 years without being promoted to pay grade E-5.

4. The applicant alleged that all 111 of the members who took the May 1995 SWE were advanced to [REDACTED], but the record contains no evidence in support of the allegation.

5. The applicant did not show that the Coast Guard had committed an error or an injustice.

6. Accordingly, the application should be denied.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The application of
of his military record is denied.

USCG, for correction

