


DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction
of Coast Guard Record of:

BCMR Docket
No. 124-96


FINAL DECISION

 Chairman:

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

This final decision, dated June 13, 1997, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Request for Correction

The applicant, a  (pay grade E-4), asked that his pay for February 15, 1996 and March 1, 1996 be corrected.

He alleged that he took 30 days approved leave, for a period ending January 22, 1996. Upon his return, he noticed that "on [his] mid-month pay period 96FEB15 . . . no monies were deposited into [his] account." He learned that the system had deducted his entire pay check due to excess leave and left him with an additional 23 days excess leave. He was told to extend his enlistment immediately. He did, for two years, on February 20, 1996, but this extension of enlistment did not solve his problem. He was only paid \$420.94 on 96MAR1, the next pay period.

The applicant was initially enlisted in the Coast Guard on February 24, 1986 as a seaman recruit. He agreed to extend his agreement for one year, on December 19, 1989, and he then reenlisted for four years from January 4, 1991. He extended for one year and two months on March 3, 1996. On February 20, 1996, he extended for two additional years.

The applicant was issued his second Coast Guard good conduct award for the period from February 27, 1989 to February 26, 1992. He was later awarded the Coast Guard Achievement Medal for superior performance from May 1991 to July 1994. On August 31, 1992, the rear admiral in charge of the First Coast Guard District

awarded him a letter of commendation "for [his] outstanding performance of duty."

Views of the Coast Guard

On December 20, 1996, the Coast Guard Personnel Command [CGPC] recommended that the Board grant relief to the applicant.

The CGPC found that the applicant's pay was reduced because he had not notified the Coast Guard regarding his intentions. The applicant's actions, until 12 days prior to March 3, 1996, the date of his expiration of enlistment, did not reflect "an intent to obligate service."

The applicant had an opportunity to extend his enlistment on January 22, 1996, when he returned from leave, but he did not do so until February 20. If he had taken such action immediately upon his return from leave, "there still would have been sufficient time to prevent the applicant's pay from being reduced."

The CGPC recommended that applicant be granted relief "due to the lack of required counseling and documented CG-3307s."

The Chief Counsel of the Coast Guard also recommended that relief be granted to the applicant. If the required predischarge interviews had been completed, as required, the applicant would have extended his enlistment prior to February 15, 1996 "for a sufficient period to avoid reduction of his pay for excess leave."

The Chief Counsel said that "[t]he Board should therefore order that Applicant's record shall be amended to indicate that he extended his enlistment on 14 February 1996 for 24 months, and that his pay and leave accounts shall be adjusted accordingly."

Response of the Applicant

A copy of the views of the Coast Guard recommending full relief was sent to the applicant.

APPLICABLE COAST GUARD REGULATIONS

The following provisions of the Pay Manual and the Personnel Manual of the Coast Guard were cited by the Coast Guard:

Pay Manual, Chapter 6, Art. 2-I-4.b. . . . "Extension(s) will be considered from the date the member agrees to the extension(s). Excess leave properly charged prior to the date a member extends a term of service . . . will not be affected, and under no

circumstances will pay and allowances previously collected be refunded."

Personnel Manual, Chapter 13, Art. 12-B-4. . . .

b.(1) "The commanding officer . . . shall advise each member approximately 6 months prior to the expiration of enlistment as to whether or not that member is eligible for reenlistment. . . . The approximate time frame for the initial pre-discharge interview is established to allow enough time to properly process a member for separation, extension, or reenlistment."

b.(3) "Immediately following the action required by subparagraph b.(1) hereof, each member who is eligible to reenlistment shall be interviewed by a petty officer, who, if possible, has indicated career intentions. The member concerned shall be afforded the opportunity to express his/her own desires regarding reenlistment intentions"

c. "When a member who is eligible for reenlistment has indicated intentions not to reenlist, followup interviews will be held by the commanding officer or executive officer."

d. "The following information shall be entered on CG-3307 of the member's Personnel Data Record.

"(1) The date of interview.

"(2) The member's expressed intention regarding reenlistment.

"(3) The commanding officer's determination regarding eligibility for reenlistment and if not eligible for reenlistment the reason therefore."

FINDINGS AND CONCLUSIONS

The Board makes the following findings of fact and conclusions of law on the basis of the submissions of the applicant and 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. The application is timely.

2. The applicant's most recent enlistment expired on March 3, 1996. He had an opportunity to extend that enlistment on January 22, 1996, when he returned from 30 days leave, but he did not do so. As a result, his pay check for February 15, 1996 was reduced to zero, because of excess leave, and his pay check for March 1, 1996 was reduced to \$420.94, because of a lack of notification from the applicant regarding

his intentions. If the applicant had acted to extend, immediately upon his return from leave, there would have been sufficient time to prevent his pay from being reduced.

3. The applicant asked the Board to help him recover the pay he claimed was erroneously withheld.

4. The Personnel Manual requires a commanding officer to advise each member six months prior to the expiration of enlistment whether or not that member is eligible for enlistment. An initial predischage interview should be scheduled to allow enough time for extension or reenlistment. Each member who is eligible shall be interviewed immediately thereafter. A form CG-3307 (page 7, administrative remarks) shall be completed setting forth the date of the interview, the member's intent, and the commanding officer's determination regarding reenlistment. The completed form shall be filed in the member's Personnel Data Record (PDR).

5. There is, in the applicant's record, a Form CG-3307 reenlistment interview report stating an intent on the part of the applicant to reenlist. The entry is dated December 19, 1990. There is no such required entry in 1995 or 1996. There is also no evidence that the Coast Guard conducted required counseling.

6. The Coast Guard committed an error in failing to conduct required counseling and required CG-3307 documentation.

7. The Coast Guard, accordingly, has recommended that the applicant's record be amended to indicate that he extended his enlistment on February 14, 1996 for 24 months and that his pay and leave accounts be adjusted accordingly.

8. Accordingly, the applicant's request for correction should be granted.

[ORDER AND SIGNATURES ON FOLLOWING PAGE]

ORDER

The military record of _____ USCG, shall be corrected to show that he extended his enlistment on February 14, 1996, for two years, and his pay and leave accounts shall be adjusted accordingly.

