


DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of  
Coast Guard Record of:

BCMR Docket  
No. 1998-048

FINAL DECISION

 Deputy 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 January 16, 1998, upon the Board's receipt of the applicant's application for correction.<sup>1</sup>

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.

The applicant, a chief warrant officer - W3 (CWO3), asked the Board to correct her military record by modifying her officer evaluation report (OER) for February 1, 1990 to July 31, 1990 (disputed OER) and by removing her failures of selection for promotion to CWO4 by the 1996 and 1997 CWO4 selection boards. The applicant is scheduled to retire on November 1, 1999.

The applicant alleged that the disputed OER is inaccurate. She also alleged that the Coast Guard failed to assign her to jobs that would have given her the necessary experience to compete on an equal basis with other personnel administrators for promotion to CWO4. She alleged that a nexus existed between the inaccurate OER and the unfair job assignments and her failures of selection for promotion to CWO4.

Later, the applicant asked that her 1996 and 1997 failures of selection for promotion to CWO4 be removed on the ground that the Coast Guard failed to correct her record as ordered by the Board in BCMR Docket 115-92. She asked to be promoted to the rank of CWO4.

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<sup>1</sup> This case was originally scheduled to be decided on May 22, 1999. However, in the process of preparing it for decision by the Board, several exhibits listed by the applicant in her application were not in the BCMR file. The Deputy Chairman contacted the applicant and explained that several exhibits were not included with her application. The applicant wanted the Board to consider these documents when making a decision on her case. The applicant was told that if she submitted the additional documents, the Board would have to allow the Coast Guard an opportunity to comment on them. She stated that she understood this. She also understood that the processing of her case would exceed the 10-month processing time. On April 27, 1999, the additional documents were forwarded to the Coast Guard for comment.

## EXCERPTS FROM RECORD AND SUBMISSION

### First Application BCMR Docket No. 115-92

The applicant filed Docket No. 115-92 on February 20, 1992. She requested the removal of an OER and a failure of selection for promotion. Prior to filing Docket No. 115-92, the applicant had filed a civil rights complaint, dated June 17, 1991, against the reporting officer on that OER and an Article 138 complaint, dated August 1, 1991, against the commanding officer. In all of these proceedings, the applicant alleged that she was the victim of sexual discrimination due to a hostile and intimidating work environment created by her reporting officer.

The applicant stated that the BCMR agreed, in Docket No. 115-92, that she was treated unfairly by her command. The BCMR ordered that an OER for the period June 1, 1989 to January 31, 1990 and a 1991 failure of selection for promotion to CWO3 be removed from her record. The Board noted in its final decision, in that case, that the applicant did not ask to have the currently disputed OER removed from her record, even though it was just as unfavorable as the one it ordered removed.

The BCMR, in Docket No. 115-92, noted that the Coast Guard had taken no action on the applicant's discrimination complaint. The Board denied most of the applicant's allegations in that case, but it made the following finding with respect to the disputed OER for the period June 1, 1989 to January 31, 1990:

The applicant submitted 21 exhibits . . . [which] aver that the mix-up regarding the location of the CFC kick-off was her subordinate's fault, that this same subordinate caused a cloud to be over her head, and that, at the end of the reporting period for the disputed OER, she was given almost no work and no responsibilities for a three month period despite her requests for work. The Coast Guard offers no explanation of this situation. Thus, the Board accepts the uncontroverted statements as corroboration of applicant's claim. An error or injustice occurred regarding this OER because her record was not portrayed in a fair and equitable manner.

### Current Application (BCMR Docket No. 1998-048)

#### Adverse Personnel Assignments

The applicant alleged that the Coast Guard committed an error or injustice by not placing her into a career path as a personnel specialist that would have eventually lead to her promotion to CWO4. She claimed this was a violation of Chapter 4 (Assignment Policies for all Members) of the Personnel Manual. She stated that she failed to be selected for promotion because, of the 15 OERs in her record that were considered by the selection board, only one was based on performance in her specialty as a personnel administrator, and it was an OER for continuity purposes only. The applicant stated

that the other 14 OERs were evaluations of her performance in a series of "create-a-job" and/or out-of-specialty assignments. She alleged that the disputed OER covered a period of performance in one of those "create-a-job" assignments. She stated that she repeatedly requested assignments in her specialty in order to become more proficient as a personnel administrator.

The applicant claimed that after she filed a sexual harassment complaint against an officer in 1982, that officer began, in retaliation for that allegation, to spread rumors that she was incompetent. The applicant alleged that the Coast Guard has continued, since 1982 and particularly since her first BCMR application, to try and prove that she was incompetent through a series of adverse personnel decisions. The applicant stated that one such deliberate adverse personnel decision occurred in 1991. She stated that even though she was a personnel administrator, she was assigned to a job in the finance and supply specialty as a contract administrator in the office of boating safety. While there, she alleged that the supervisor treated her more like a secretary than an officer. She stated that after the boating assignment, she felt compelled to refuse an assignment to a job in her specialty because of the negative rumors that were circulating about her incompetence.

The applicant stated that approximately one year after she refused the assignment in her specialty, she was misled into accepting a job as the CO of a [REDACTED]. She stated that when she reported to the Seventh Coast Guard District for this job, the [REDACTED] had been closed. She alleged that her detailer and her command knew that this job was being abolished but did not inform her. The applicant stated that she was then put into another "create-a-job" situation. She stated that later she was detailed to the [REDACTED] for a year.

The applicant offered the following as further evidence of her mistreatment. She stated that in 1995 she was told by the Commander, [REDACTED] Coast Guard District, that she was an excess individual who needed to request a transfer. She stated that her request to remain in [REDACTED] was denied, while another individual was brought in from [REDACTED] to fill a vacant warrant officer job.

The applicant stated that after seven and one half years, she is finally in a job as a personnel administrator, her specialty. She stated that the assignment, and work she is currently doing, is meaningless to the promotion board because the one OER in her specialty will not outweigh 14 other evaluations in non-specialty assignments.

#### Disputed OER

The applicant stated that the reporting officer on the disputed OER believed the negative rumors that she was incompetent, even though her immediate supervisor indicated that she was a competent officer.

The supervisor signed his portion of the disputed OER on November 2, 1990. In block 3. (performance of duties) of the disputed OER, the supervisor gave the applicant

a mark of 4 in each of the 7 performance categories. He commented that the applicant came to the legal division with no legal experience.

The reporting officer signed his portion of the disputed OER on September 24, 1990, and the reviewer signed his portion of the disputed OER on November 14, 1990. In block 8 of this report, the reporting officer disagreed with the supervisor's evaluation of the applicant's performance and wrote, in pertinent part (which the applicant has asked to be deleted), as follows:

I do not concur with the Supervisor's marks. [The applicant] came to [REDACTED] with no [REDACTED] background. Her [REDACTED] background required an adjustment to the [REDACTED] role. Her limited familiarity with basic administrative personnel procedures required other members of the staff to spend an inordinate amount of time training her and limited her own productivity. However, she has been conscientious & willing to learn. I would have assigned the following marks: 3a - 3, 3b - 3, 3c - 3, 3d - 3, 3e - 3, & 3.

The reporting officer rated the applicant as a qualified officer, a mark of 2 (out of a possible high of 7), in block 12 of the disputed OER. The applicant believes this mark should be raised to a 4.

The applicant alleged that the officer who had allegedly harassed her, in 1982, was assigned to [REDACTED] during the time she received the OER ordered removed by the Board in Docket No. 115-92 and the currently disputed OER. The applicant further alleged that attempts were made, which she resisted, to have her work for this officer again. She stated that she was subsequently assigned to work in the [REDACTED] where she received the disputed OER.

In a later statement, the applicant alleged that the reporting officer for the disputed OER was prejudiced against her because she had filed a discrimination complaint against her previous reporting officer and an Article 138 complaint against her commanding officer.

#### **Additional Submission by the Applicant**

On November 4, 1998, the Board received a further submission from the applicant containing two additional statements.

1. Included in that package was a letter from a retired Commander who served as the applicant's supervisor for the period covered by the disputed OER. He stated that prior to his detachment from the command he prepared the supervisor's portion of the disputed OER, based on his daily observations of the applicant's performance. The CDR stated that after his retirement, he was contacted by the command and told that he needed to re-sign the supervisor's portion of the disputed OER because the reporting

officer did not concur in the marks he had given the applicant. He stated that he was sent a new copy of page 3 of the disputed OER, which he signed and returned. The CDR further stated that he did not recall being asked for advice about the applicant's performance while at the command. He stated that the marks he assigned in the supervisor's portion of the disputed OER accurately reflected the applicant's performance.

2. The applicant also submitted a letter from an attorney who represented her in a legal matter regarding her military career. He stated that in October 1990, the applicant wrote him a letter stating that the command intended to discharge her on the ground that she was incompetent. If she contested that action, she said that the command would make an issue of her alleged emotional instability. The attorney stated that the applicant also told him that both the supervisor and reporting officer told her that she would receive a good OER, but later, the reporting officer did not agree with the supervisor's evaluation of the applicant's performance.

The applicant also submitted copies of her OERs and copies of documents from the investigative report of her 1991 discrimination complaint and Article 138 complaint.

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

On December 3, 1998, the Chief Counsel of the Coast Guard submitted an advisory opinion recommending that the applicant's 1996 and 1997 failures of selection for promotion to CWO4 be removed from her record because the Coast Guard failed to correct the applicant's electronic record by removing an OER as directed by the BCMR in Docket No. 115-92. The Chief Counsel recommended that the remainder of the applicant's request be denied for failure to request timely reconsideration of Docket No. 115-92, for failure to exhaust administrative remedies, or in the alternative, for failure of proof.

The Chief Counsel argued that the applicant's request for relief with respect to the currently disputed OER should be denied as an untimely request for reconsideration of the matter adjudicated in Docket No. 115-92, pursuant to 33 CFR 52.67(e).

The Chief Counsel stated that in Docket No. 115-92, the applicant asked that the OER immediately preceding the currently disputed OER be removed from her record. The Chief Counsel stated that the applicant failed, however, to assert a claim regarding the currently disputed OER even though she was well aware of this OER and its circumstances at the time she submitted her application in Docket No. 115-92. The Chief Counsel stated that the BCMR, in that case, noted the fact that the applicant did not ask for the removal of the disputed OER even though it contained a mark of 2 (out of a possible high of 7) on the comparison scale. The Chief Counsel argued that by failing to assert this claim in 1992, the applicant is effectively barred under the regulations from making an allegation arising from the same circumstances as her previous complaint.

The Chief Counsel next argued that the applicant had failed to exhaust her administrative remedies. The Chief Counsel stated that the applicant's sole basis for this action is alleged discrimination. He further stated that the DOT Office of Civil Rights (DOCR) has authority to investigate discrimination complaints. He asserted that without an investigative report by competent authority, the Board lacks the factual support necessary for it to grant the requested relief to the applicant.

The Chief Counsel stated that the disputed OER represents the honest professional judgment of those responsible for evaluating the applicant under the Coast Guard officer evaluation system. The Chief Counsel stated that the evidence offered by the applicant did not rebut the presumption that the rating chain officials executed their duties correctly, lawfully, and in good faith. The Chief Counsel also stated that the applicant did not submit any substantiated evidence that the disputed OER was the result of discrimination.

The Chief Counsel stated that the applicant "attempts to cast doubt on the validity of the disputed OER by impugning her reporting officer with the totally unsubstantiated claim of bias." In support of this allegation, the Chief Counsel stated that the applicant only presented her unsubstantiated allegation that the reporting officer chose to accept as true the rumors that she was incompetent.

The Chief Counsel noted that the applicant also failed to exercise her right to submit an OER reply challenging the disputed OER. According to the Chief Counsel, an OER reply was the applicant's opportunity to raise the discrimination issue with respect to the OER.

The Chief Counsel argued that no inference can be drawn between the circumstances in this case and the Board's decision in favor of the applicant in Docket No. 115-92. The Chief Counsel stated that the Board found that the applicant had submitted specific and credible evidence to support her allegations with respect to that disputed OER in Docket No. 115-92. He argued that the allegations in the instant case are current and distinct from those presented in Docket No. 115-92. Those issues have no bearing on the issues in the instant case.

The Chief Counsel stated that in February 1990 (a period covered by the currently disputed OER) the applicant was transferred to a new position under different working conditions from those covered by the disputed OER in Docket No. 115-92. He also stated that the applicant had a different rating chain on the disputed OER than she had on the previous OER that was ordered removed by the Board in Docket No. 115-92. The Chief Counsel argued that no permissible legal inference of discrimination or error can be imputed from the circumstances of the previous OER to the circumstances underlying the currently disputed OER.



The Chief Counsel stated that if the Board determines that the disputed OER is in error or unjust, it should also find that a nexus exists between the disputed comments and marks and the applicant's failure of selection for promotion to CWO4.

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

The applicant disagreed with the Coast Guard that no error or injustice existed with respect to her prior CWO assignments. She stated that her job in the legal division at [REDACTED] was not an administrative one, as the Coast Guard indicated. She alleged that she had no job description, no assigned duties, and was just an extra body.

The applicant stated that she is not alleging discrimination in her BCMR application. Accordingly, the argument that she has failed to exhaust her administrative remedies does not apply. She stated that she is alleging that she has suffered unfair and unjust assignment practices for 7 1/2 years. She stated that she has filed a civil rights complaint (June 1997) "for a determination of the cause and effect of the Coast Guard's unfair assignment practices." She argued that the only adequate and effective remedy for her situation is with the BCMR because the civil rights process takes even longer than the BCMR process.

The applicant disagreed with the Coast Guard that this matter should be treated as a reconsideration of Docket No. 115-92. She stated that a challenge to the disputed OER was not ripe when she filed BCMR Docket No. 115-92 because she could not have established harm at that time. She claimed that she was not aware of the harm until the PY97 promotion board informed her that she was passed over for W-4 because of the inclusion of an OER in her record that had been ordered removed by the BCMR and because of the negative comments and the block 12 mark on the disputed OER.

The applicant alleged that the disputed OER was not a fair and accurate evaluation of her performance. She stated that her supervisor found nothing wrong with her performance. She stated that since the supervisor refused to lower her evaluation at the request of the reporting officer, she is at a quandary on what reports the reporting officer used to evaluate her performance, since he did not directly observe her performance. The applicant asserted that the only reports which the reporting officer could have relied on were those that related to her effort to have her record corrected.

The applicant stated that although she had a different rating chain for the currently disputed OER than she did for the OER ordered removed by the BCMR, she remains convinced that the reporting officer could not be fair because he worked for the same admiral that the prior reporting officer worked for. She also alleged that her reporting officer for the disputed OER had a conflict of interest because:

[H]e was both [the applicant's] reporting officer and . . . the chief, [REDACTED] Legal Division responsible for providing legal advice on my Article 138 [complaint] and discrimination complaints. This conflicting

situation should have disqualified him from my rating chain in accordance with expressed provision of Coast Guard Personnel Manual (Article 10-A-2.g.2).

[T]hat by giving [the applicant] a truly fair evaluation [the reporting officer] may have endangered his own evaluation by his reporting officer. . . .

The applicant stated that the Chief Counsel admitted that her record would appear stronger if the disputed OER were removed. He also stated that it was not unlikely that she would be selected for promotion to W-4 if the disputed OER were removed from her record.

The applicant stated that the Coast Guard had administratively corrected her record by recently removing the OER ordered removed by the Board in her previous BCMR case. The Coast Guard also recommended that the applicant be given her two additional opportunities before the W-4 selection board. The applicant's corrected record was considered by the 1998 selection board, but was not selected. She claimed that the only remedy is for the Board to promote her to CWO4.

#### **Additional Information from the Applicant**

1. The applicant submitted a letter that she wrote to the Commandant dated June 21, 1993, explaining why she wanted to refuse change of station orders to MIO [REDACTED]. She stated that she felt that negative rumors with respect to her lack of competence had prejudiced MIO personnel against her. In addition she requested not to be transferred because she had not completed her current tour, she was in the middle of two major projects, and the CWO that she would replace had not completed his tour and his command had not recommended him for a transfer.

2. The applicant submitted a statement from an individual on active duty who worked with the applicant in 1981. He stated that the applicant told him that her military supervisor was asking her for dates. This individual stated that after the applicant began dating someone else, her military supervisor stood her in front of the entire [REDACTED] district staff and threatened to reduce her rate for incompetence. He stated that the applicant encountered these same people at the command where she received the currently disputed OER.

3. The applicant also submitted a statement from a reservist who became acquainted with the applicant in October 1994 when she reported to the [REDACTED] Coast Guard District Reserve Division. He stated that the applicant had orders to be the CO of the Reserve Center in [REDACTED] but when she reported for duty the Reserve Center had closed.

This Reservist also stated that the applicant was assigned the task of processing orders while he and the LTJG were on sick leave. When the LTJG returned from sick



leave she resumed her duty of processing orders. The applicant was left with nothing to do. This Reservist stated that "[t]he division chief and the assistant division chief seemed to be preoccupied with taking care of themselves and 'some' staff members, but they did not make any attempt to find [the applicant] another assignment suitable for a warrant officer either within the division or within the district." This Reservist further stated as follows: "[The applicant] did not have any regularly assigned duties and it seemed as if there was no place for her in the office."

On April 27, 1999, the additional statements as well as several other documents were sent to the Coast Guard for their review and comment. On July 22, 1999, the Board was informed that the Coast Guard would have no further comment.

### FINDINGS AND CONCLUSIONS

The Board makes the following findings and conclusions on the basis of the applicant's record and submissions, the Coast Guard's submission, 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, Detweiler v. Pena, 38 F.3rd 591 (D.C. Cir. 1994).

2. The Chairman has recommended that the case be determined without a hearing. 33 CFR 52.31. The Board concurs in that recommendation.

3. The Coast Guard's argument that this claim is in essence a reconsideration of BCMR Docket No. 115-92 is without merit. The two OERs are distinct and separate reports that cover different periods of time. They each involved different rating chains and cover different functions. The Chief Counsel stated in his advisory opinion that the allegations in the instant case are current and distinct from those presented in the first case, Docket No. 115-92. While the applicant certainly could have challenged the disputed OER in Docket No. 115-92, she chose not to do so. Therefore, the issue of the currently disputed OER was not before the BCMR in Docket No. 115-92. The Board finds that this action is not a reconsideration of the action in Docket No. 115-92.

4. The Chief Counsel's argument that the applicant's claim is barred because she did not raise it in her first application is not persuasive. While it is certainly judicially expedient to bring all known claims at one time, nothing in the Board's rules requires an applicant to do so. The Board accepts the applicant's explanation that while she knew the OER was not flattering, she was not aware that she could bring an action to have it removed until she had some evidence that she had been harmed by it. She got that evidence when she was told by the 1997 CWO4 selection board that the disputed OER was one of the reasons she was not selected for promotion.

5. The Coast Guard urged the Board to dismiss this case because an administrative remedy available to the applicant through the civil rights process has not been completed. The applicant's 1997 civil rights discrimination complaint has not been

finally adjudicated, although the investigating officer has issued a report. The Board is not persuaded that it should dismiss this application. The applicant has denied that she asked this Board to reach a discrimination finding. Rather, she is asking the Board to find that her history of unfair assignments created an injustice in her record that resulted in her non-selection for CWO4. The Board must act in this case to remove the 1996 and 1997 failures of selection for promotion to CWO4 due to a Coast Guard error. It is, therefore, judicially expedient that it also consider the other allegations of error with respect to the disputed OER and related matters, since the applicant has joined them in this petition.

6. Since the DOCR, even on a finding of discrimination, cannot remove the OER or the failures of selection for promotion from the applicant's record, doubt exists whether the civil rights process would provide an available and effective remedy for the applicant. Moreover, the applicant is scheduled to retire on November 1, 1999, prior to the convening of the next CWO4 selection board. The correction of her record, at this time by the Board, will permit her to remain on active duty to compete before the 1999 and 2000 CWO4 selection boards.

7. The applicant has not demonstrated that the reporting officer was prejudiced against her in the disputed OER because she had filed an earlier discrimination complaint, in 1991, against her previous reporting officer and an Article 138 complaint, that same year, against her previous commanding officer. She has not shown that the noting of a weakness in her performance by the reporting officer was based on a bias against her.

8. The applicant has also failed to show that the reporting officer should have been removed from her rating chain for the disputed OER, under Article 10-A-2g.(2)(b), Personnel Manual, because of a conflict of interest. The disputed OER was prepared before the applicant filed her 1991 discrimination complaint or the Article 138 complaint. The official complaint of discrimination was filed on June 17, 1991, and the Article 138 complaint was filed on August 1, 1991. The reporting period for the disputed OER ended on July 31, 1990. The supervisor signed his portion of the OER on November 2, 1990, the reporting signed on September 24, 1990, and the reviewer signed the disputed OER on November 14, 1990. Thus, it appears to the Board that the various complaints by the applicant had nothing to do with the reporting officer's evaluation of her performance. Even if the reporting officer acted to advise the command on the Article 138 complaint, such advice would have occurred well after the disputed OER had been prepared.

9. The applicant has not demonstrated that the disputed OER is an inaccurate and unfair evaluation of her performance. The supervisor and reporting officer disagreed about the applicant's performance. The supervisor assigned marks of 4 in each of the performance categories and the reporting officer stated, in block 8, that he would have assigned her marks of 3 in at least five of the performance categories. This disagreement causes the OER to appear contradictory on its face. However, the officer evaluation system consists of multiple evaluators and reviewers who present

independent views of performance and act to ensure accuracy, timeliness, and correctness of reporting. Article 10-A-2, Coast Guard Personnel Manual (Change 7). The different evaluations of the applicant's performance by members of the rating chain do not constitute error or injustice in and of themselves. There needs to be a clear showing of an inaccuracy in the OER on the part of the reporting officer or supervisor before the Board can find that the OER is erroneous.

The applicant questions the accuracy of the reporting officer's comments with respect to his disagreement with the marks assigned by the supervisor in block 3. She alleged that the reporting officer did not have direct observation of her performance, although she failed to explain why this was so. The applicant erroneously concludes that the reporting officer's assessment of her performance must have been based on her efforts to have her record corrected. There is no evidence in the record to support the applicant's conclusion in this regard. Moreover, Article 10-A-2e.(2) of the Personnel Manual states that the reporting officer can base his evaluation of an officer's performance not only on reports from the supervisor but also on other reliable reports and records. The reporting officer wrote that the lack of a legal background and the need for training limited the applicant's productivity. She has not proven this statement to be erroneous. The Board cannot say that the reporting officer's judgment of the applicant's performance was inaccurate because the applicant has not demonstrated that his assessment of her performance is in error. The statements submitted by the applicant do not establish error on the part of the rating chain. The statement from the individual who worked with the applicant in 1981 and the statement from the Reservist who worked with the applicant in 1994 do not provide observations of the applicant's performance and treatment by the rating chain during the period under review.

10. The removal of the previous OER does not establish that the disputed OER is inaccurate. The two OERs involved different rating chains and different duties. Additionally, in the previous BCMR case, the Board found that the applicant had established that the evaluation of her performance was erroneous because she had shown by a preponderance of the evidence that she did not have assigned duties for a significant part of that reporting period and that she was unfairly blamed in the OER for an event that was not her fault. In the present case, there is no such evidence, except for the different views of the members of the rating chain that bear directly on the applicant's performance during the reporting period. Accordingly, the applicant has not established by a preponderance of the evidence that either the supervisor or reporting officer was wrong in the evaluation of her performance.

11. The mark of 2 in block 12 of the disputed OER is not dependent on the grades and comments in the remainder of the evaluation. The mark in block 12 (comparison scale) of the OER represents the reporting officer's rating of the applicant relative to other officers of that same grade that he has known throughout his career. Article 10-A-4d.(9)(a), Personnel Manual. The mark of 2 in block 12 represents the judgment of this reporting officer in this regard. It will be respected by the Board unless shown to be in error or unjust.

12. The applicant's allegation that the Coast Guard committed an injustice by failing to place her into a career path as a personnel specialist that would have led to her selection for promotion to CWO4 is conjecture. Article 5.B.1.a., of the Personnel Manual defines a warrant officer as someone who is mature, with demonstrated initiative and past performance that show they have the potential to assume positions of greater responsibility requiring broader conceptual, management, and leadership skills. This provision further states that "[w]hile administrative and technical expertise is required in many assignments, CWOs must be capable of performing in a wide variety of assignments that require strong leadership skills." Therefore, the Board concludes that even if the applicant did not have the ideal assignments for a personnel specialist, there was ample opportunity for the applicant to demonstrate her leadership and management skills in the jobs she was assigned. Moreover, the Board notes that early on in the applicant's career as a personnel specialist she was offered a job in her specialty, which she declined because she believed that negative rumors had caused the prospective command to view her in a negative light. This was the applicant's choice and not the Coast Guard's. There is no evidence before the Board that every other warrant officer who was considered by the 1996 and 1997 selection boards had more assignments in their specialty than the applicant did.

13. The applicant's record should be corrected to remove her 1996, 1997, 1998 failures of selection for promotion to CWO4 because of the Coast Guard's failure to properly correct her record as ordered by the Board in BCMR Docket No. 115-92. The OER ordered removed by that Board was still in the applicant's record when it was considered by the 1996 and 1997 selection boards. The Coast Guard corrected the applicant's record prior to her consideration by the 1998 selection board. However, the Board finds that even though the applicant had a corrected record before the 1998 board, she still suffered an injustice because she was considered by that board as an officer above the zone. She is entitled to two additional opportunities to compete for promotion to CWO4 before the 1999 and 2000 CWO4 selection boards with a properly corrected record.

14. All other requests for relief should be denied.

15. All of the applicant's contentions have been considered by the Board. Those not specifically discussed within the findings and conclusions are considered to be without merit.

ORDER

The application of [REDACTED] USCG, for correction of her military record, is granted in part. Her record shall be corrected as follows:

The 1996, 1997, and 1998 failures of selection for promotion to CWO4 shall be removed from her record. The applicant shall be given two additional opportunities to be considered for promotion before the 1999 and 2000 CWO4 selection boards. She shall be considered as an officer within the zone by the 1999 CWO4 selection board. If she is selected for CWO4 by the 1999 selection board, her date of rank, once promoted, shall be adjusted to the date she would have received if she had been selected for promotion to CWO4 by the 1996 board, together with back pay and allowances.

All other requests for relief are denied.

