


DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS

Application for Correction of
Coast Guard Record of:



BCMR Docket
No. 1998-065

FINAL DECISION

:
This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on March 5, 1998, by the filing of an application for relief with the BCMR.

This final decision, dated November 19, 1998, is signed by the three duly appointed members who were designated to serve as the Board in this case.

The applicant, a lieutenant junior grade (LTJG) in the Reserve at the time he filed his application with the Board, asked the Board to promote him to the rank of lieutenant (LT) in the Reserve. In the alternative, he asked the Board to order that if he were selected for promotion to LT by the PY (promotion year) 98 selection board, that his record be corrected to give him the date of rank as a LT that he would have had, if had been selected for promotion by the PY97 LT selection board, with back pay and allowances.

The applicant was not selected for promotion to LT by the PY97 LT selection board. He was selected for promotion to LT by the PY98 LT selection board, which met in November 1997.

EXCERPTS FROM RECORD AND SUBMISSIONS

The applicant had previously filed an application for relief with the Personnel Records Review Board (PRRB) of the Coast Guard. He asked the PRRB to remove his PY97 failure of selection for promotion to LT and to grant retroactive promotion to LT because an OER for the period ending July 26, 1996, was not included in his record when it was considered by the selection board.

The PRRB found the following:

The [Coast Guard Personnel Command] . . . OER manager determined that [the applicant] submitted the subject OER to his supervisor on 26 July 96 but it was not signed by the reviewer until 30 October 1996. CG

Seventh District then mailed the OER, via Federal Express, on 20 November 96. Unfortunately, the District mailed the OER to the wrong division at the Coast Guard Personnel Command: CGPC-opm (active duty) vice CGPC-rpm (reserve). CGPC-opm logged in the OER on 21 November 96. The OER was picked up by CGPC-rpm on 26 November 96, four days after the scheduled close of the PY97 Reserve Lieutenant Promotion Board.

The PRRB concluded that the applicant had been placed at a disadvantage before the PY97 LT selection board because the records of the other candidates included their most current OERs. Accordingly, the PRRB made the following recommendation, which was approved by the Commandant:

CGPC should remove any reference to [the applicant's] failure of selection by the PY97 Reserve Lieutenant Selection Board in electronic and written PDR's. CGPC should then place [the applicant's] record before the PY98 Reserve Lieutenant Selection Board. The Coast Guard should forward [the applicant's] application to the Board for Correction of Military Records (BCMR) recommending that it issue an order to the effect that, if selected by the PY98 board, [the applicant's] date of rank be backdated to the date he would have been promoted as a result of the PY97 board.

Views of the Coast Guard

On October 26, 1998, the Chief Counsel of the Coast Guard issued an advisory opinion on this case. He recommended that the Board grant relief by adjusting the applicant's date of rank as a LT to the date he would have had, if he had been selected by the PY97 LT selection board.

Applicant's Response to the Views of the Coast Guard

On October 29, 1998, the Board mailed a copy of the views of the Coast Guard to the applicant with an invitation for him to respond. On November 13, 1998, the Board received the applicant's response, agreeing with them.

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 BCMR has jurisdiction of the case pursuant to section 1552 of title 10, United States Code. The application was timely.

2. The Board finds that the Coast Guard committed an error by forwarding the applicant's OER for the period ending July 26, 1996 to the wrong office within CGPC. Therefore, this OER was not in the applicant's record when it was considered by the PY97 selection board.

3. The Board agrees with the PRRB and the Chief Counsel that the applicant's record that was considered by the PY97 LT selection board looked worse without the OER for the period ending July 26, 1996. The Board finds that it is not unlikely that the applicant would have been promoted by the PY97 selection board if he had a complete record at that time. He was selected in PY98 when he had a complete record.

4. The PRRB has already corrected the applicant's record by removing his failure of selection before the PY97 LT selection board. Based on the above findings, the Board finds that, in addition to the relief granted by the PRRB, the applicant is also entitled to have his date of rank adjusted to the date he would have had if he had been selected by the PY97 LT selection board.

5. Accordingly, the Board finds that the applicant's request should be granted.

ORDER

The application of _____ for correction of his military record is granted. His date of rank as a LT shall be corrected to give him the date of rank he would have had if he had been selected by the PY97 LT selection board, with back pay and allowances.

