


DEPARTMENT OF TRANSPORTATION  
BOARD FOR CORRECTION OF MILITARY RECORDS

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Application for Correction  
of Coast Guard Record of:

BCMR Docket  
No. 127-96


FINAL DECISION

 Chairman:

This is a proceeding under the provisions of section 1552 of title 10, United States Code. It was commenced on June 21, 1996, upon the BCMR's receipt of an application for correction.

This is the final decision in this case, dated June 27, 1997. It is signed by three duly appointed members who were designated to serve as the Board in this case.

Application for Correction:

The applicant, who is a  (pay grade E-7), asked the Board to order that he be paid for drills performed in the Reserve from January 1, 1994, to June 21, 1996. He alleged that he was unjustly placed in a non-pay drill status on January 1, 1994, under the Coast Guard's FY94 downsizing plan.

The applicant alleged that the Coast Guard committed an injustice when it transferred him out of the Selected Reserve as a result of the FY94 downsizing plan. He said he should have been granted an exception, based on paragraph 6.C. of that plan (special conditions). He also alleged that he used three years of career time in completing the requirements of "an ordered lateral change." He never received the rating change, however, because there was no available billet. He said he should have received professional growth points (PGP) pursuant to paragraph 6.C. and should have been continued in the Selected Reserve. The applicant argued that the 1994 downsizing plan itself was unfair and arbitrary because retention in the enlisted ranks was based on a different foundation than retention in the officer ranks.

On December 4, 1993, the applicant urged the Coast Guard to allow him to continue to "drill in a pay status" because he had been filling an [REDACTED] billet for the past 10 years. On December 29, 1993, he asked his District Commander to credit him with additional PGPs because, from April 1983 through April 1990, he was authorized to change his rate from [REDACTED]

The applicant's District Commander, on March 16, 1994, rejected the applicant's request to return to a pay billet. The Commander said that paragraph 6.C. of the FY94 downsizing plan "allows only those reservists who are currently pursuing a lateral change in rating to extend their PGPs." (emphasis added). The applicant was ineligible because he had completed the requirements for a lateral rating change but no [REDACTED] billet was available.

#### Views of the Coast Guard

On April 21, 1997, the Board received an advisory opinion from the Coast Guard recommending a denial of relief in this case. The Chief Counsel of the Coast Guard said that the Coast Guard cannot promise continuation in the Selected Reserve (SELRES) any more than it can promise continuation of active duty for regular personnel. The Coast Guard can also not award a professional growth point to the applicant except "for time dedicated to satisfactory completion of a lateral change in rating." The applicant did not complete his lateral to the [REDACTED] rating and so remained a [REDACTED] who is not entitled to an extension of his [REDACTED] professional growth point.

The Chief Counsel said that the applicant's assertion that he "was directed by his command to lateral in rate" from [REDACTED] was "unsupported and misleading." According to the Coast Guard, the applicant requested a lateral transfer in 1983 "in order to remain in the unit." "It appears that if Applicant had not been granted this authorization, he would have lost his SELRES billet in 1983 rather than in 1984."

The Coast Guard Personnel Command (CGPC) came to the same conclusion as the Chief Counsel. The CGPC recommended that no relief be granted and that there be no correction to the entry which caused him to be placed in a non-pay status in January 1994. Paragraph 6.c. of ALDIST 087/94 allows a waiver that would permit the applicant to maintain his former pay billet, but the waiver is only for members "who satisfactorily complete lateral changes in rating." This does not count for the applicant because he never completed the lateral change in rating.

### Response of the Applicant to the Views of the Coast Guard

On April 24, 1997, the BCMR sent a copy of the views of the Coast Guard to the applicant, and it encouraged him to respond to those views within 15 days.

No response was received by the BCMR.

### FINDINGS AND CONCLUSIONS

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

1. The Board has jurisdiction to determine the issues in this proceeding under section 1552 of title 10, United States Code.

2. The applicant first enlisted in the Coast Guard for two years on August 9, 1973. He extended his enlistment on August 5, 1975, for two years. He reenlisted for four years on August 7, 1977, and for eight years on July 22, 1989.

On August 8, 1987, a board verified that he had completed 20 years service for retirement purposes.

3. The applicant alleged that the Coast Guard had committed error or injustice in placing him in a non-pay status in January of 1994 pursuant to ALDISTS 323/93, 344/93, and 087/94.

4. Section 5. of ALDIST 323/93 is entitled "Enlisted Professional Growth Points." Subdivision F. thereof provides that a person in pay grade E-7 is not eligible for retention in the Selected Reserve if he or she has 26 or more years of total military service. The applicant's 26th year of total military service was 1994.

5. Section 6. of ALDIST 323/93 is entitled "Special Conditions." Subdivision C. thereof authorizes extension of a professional growth point for the "satisfactory completion" of a lateral change in rating up to three years.

6. Section 6 is not applicable to this case, however, because the applicant did not successfully complete a lateral change in rating.

7. The applicant has not established that the Coast Guard committed any error or injustice with respect to him. The application accordingly should be denied.

ORDER

The application to correct the military record of former [REDACTED]  
[REDACTED] USCGR, is denied.

[REDACTED]