

**DEPARTMENT OF HOMELAND SECURITY  
BOARD FOR CORRECTION OF MILITARY RECORDS**

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Application for the Correction of  
the Coast Guard Record of:

**BCMR Docket No. 2003-064**

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**FINAL DECISION**

**ANDREWS, Deputy Chair:**

This is a proceeding under the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on April 7, 2003, upon the BCMR's receipt of the applicant's completed application.

This final decision, dated January 5, 2003, is signed by the three duly appointed members who were designated to serve as the Board in this case.

**APPLICANT'S REQUEST AND ALLEGATIONS**

The applicant asked the Board to correct his military record to make him entitled to an enlistment bonus upon completing "A" School to become a quartermaster (QM). He alleged that in October 2000, he was in the Army National Guard but wanted to join the regular Coast Guard, so he contacted a recruiter. He told the recruiter that he had prior active service in the Army, was in the Guard, and wanted to join the Coast Guard but did not know what rating he wanted to enter. He told the recruiter that he would pick a rating after completing Basic Training. He alleged that he asked if there was a bonus available and was told by the recruiter that the Coast Guard did not offer bonuses to prior service personnel, but that he would be advanced to pay grade E-3 immediately upon completing Basic Training. The applicant stated, "I took that as fine and enlisted for 4 years."

The applicant alleged that upon arriving at the training center in January 2001, he learned that some prior service recruits had received a bonus for enlisting. In addition, "the Command Master Chiefs from critical ratings came to [the training center] to talk to the trainees about each critical rating and offered us the opportunity to sign up for those 'A' Schools while we were in Basic Training and that we could receive a bonus for those ratings." Therefore, he stated, he signed up for QM "A" School and was told

that the bonus was \$8,000 upon successful completion of the training. However, when he was completing the paperwork to attend QM "A" School, he was told that he was not eligible for the bonus because his recruiter did not fill out the right paperwork. However, he stated, he decided to attend the school and become a QM anyway.

At QM "A" School, the applicant alleged, he learned that he was the only one, out of 21 students, who would not receive a bonus. He stated that he feels that his recruiter lied to him. In support of his allegations, the applicant submitted a letter from his current commanding officer (CO). The CO asked the Board to correct the applicant's record for the following reasons:

Due to an apparent oversight by his recruiter and through no direct fault of the member, [the applicant] did not receive the initial enlistment bonus eligible at the time that other prior service military members in his Basic Training class had received. He later signed up for and completed Quartermaster "A" School after being advised during Basic Training that members who successfully completed that school would receive an \$8000 bonus. Despite completing that course of instruction, he was told that he was not eligible because his recruiter had not completed the proper paperwork at the time of his enlistment. However, other members from his same class did receive the critical rating bonus.

The applicant enlisted in good faith under the instructions that he received from his recruiter at that time. However, he has confirmed that those instructions were not accurate and that they adversely impacted the bonus he should have received upon enlisting or the later bonus he could have received for successfully completing a critical rating "A" school. The member attempted to correct this mistake during Basic Training and while at "A" school without success.

### **SUMMARY OF THE RECORD**

On January 9, 2001, the applicant enlisted as an E-3 in the Coast Guard for a term of four years. On the contract, he initialed an acknowledgment that no promises or guarantees other than those shown on the contract had been made to him. The contract does not mention an enlistment bonus. A "Statement of Understanding" that he and his recruiter signed that day indicates that he was enlisting as an E-3 because of his prior military service. A "Statement of Creditable Service" shows that he had previously served in the Army for two years, three months, and 22 days, and that he had recently been in the Army National Guard.

Upon completing basic training, the applicant attended QM "A" School. On June 15, 2001, he successfully completed the training. On July 9, 2001, he was advanced to QM3, pay grade E-4. He is currently assigned to a cutter.

### **INITIAL VIEW OF THE COAST GUARD**

On August 22, 2003, the Chief Counsel of the Coast Guard submitted an advisory opinion in which he recommended that the Board deny the applicant's request.

The Chief Counsel argued that the applicant was not entitled to an enlistment bonus merely because other recruits were offered the bonus as an inducement to enlist. He alleged that no recruit is entitled to an enlistment bonus unless he is eligible and his recruiter offers him the bonus as an inducement to reenlist. The Chief Counsel attached to his advisory opinion a memorandum on the case prepared by the Coast Guard Personnel Command (CGPC). CGPC stated the following:

[A]n enlistment incentive bonus to attend QM "A" School was offered to prospective enlistees on a case by case basis during the time the Applicant enlisted. Recruiters were authorized to offer this incentive at their discretion, depending on their determination that an incentive was necessary to successfully recruit an individual. ... If the recruiter feels that a bonus is not needed to enlist an applicant, the bonus will not be offered. ... [I]t is clear that the Applicant was neither promised nor expected any kind of enlistment bonus. ... The recruiter had no obligation to offer a bonus to the Applicant and no blanket entitlement existed for students attending QM "A" School. Even with the knowledge that he would not receive a bonus, the Applicant volunteered to attend QM "A" School.

CGPC stated that since October 2002, recruiters have been required to complete a form with new recruits in which they acknowledge that they have "not been offered any bonus incentive, either to enlist or attend a specific "A" school, but that a member may be eligible for a bonus if they agree to attend an "A" school while in basic training for a rating that offers an enlistment bonus." CGPC stated that prior to October 2002, Annex H was to be used only selectively by recruiters to document the offer of the incentive. However, CGPC was unable to provide a copy of the instructions provided to recruiters prior to October 2002 regarding the use of Annex H.

#### **APPLICANT'S RESPONSE TO THE COAST GUARD'S VIEWS**

On August 25, 2003, the BCMR sent the applicant copies of the Chief Counsel's advisory opinion and CGPC's memorandum and invited him to respond. On September 26, 2003, the applicant submitted his response.

The applicant stated that "the fact that an individual Coast Guard recruiter can *selectively* offer recruiting bonuses is astonishing. This practice is at the very least inequitable, and quite frankly could easily be interpreted as an instrument of prejudice, partiality or graft." He stated that "[a]s a prior military member, I was aware of recruitment incentives, and therefore my expectation was that my recruiter would be forthright in his depiction of my available options, based on my particular skill sets and experience which included prior military service and three years of college coursework." The applicant alleged that he specifically asked his recruiter if he was eligible for any recruiting bonuses and "was told no bonuses were available for prior service personnel."

The applicant argued that the new requirement that recruiters complete "Annex H" with new recruits proves the unfairness of the prior policy of allowing recruiters to

offer bonuses selectively. Therefore, he asked the Board to correct his record by including an "Annex H" so that he would be eligible for the bonus.

### **SUPPLEMENTAL ADVISORY OPINION**

On December 30, 2003, following further inquiry by the Board, the Chief Counsel of the Coast Guard submitted a supplemental advisory opinion on the case in which he recommended that the Board grant relief. The Chief Counsel stated that during discussions of the case with personnel at the training center and recruiting command, "it was discovered that at the relevant time, [the training center] had the authority to authorize an enlistment bonus when trainees elected class 'A' school for a critical rating. [That authority] existed independently of the recruiters' authority to offer an enlistment bonus at the time of the enlistee's recruitment. ... Unfortunately, at the time Applicant was involved in the process it was both confused and confusing and record keeping was apparently inconsistent." The Chief Counsel stated that this new information indicates that the applicant received erroneous advice when he was told at the training center that he could not receive the bonus because his recruiter had not completed an Annex H. Therefore, he recommended that the Board grant the applicant's request in the interest of justice.

### **FINDINGS AND CONCLUSIONS**

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

1. The Board has jurisdiction concerning this matter pursuant to 10 U.S.C. § 1552. The application was timely.
2. The applicant alleged and the Coast Guard admitted that upon successfully completing QM "A" School, the applicant would have been entitled to an \$8,000 enlistment bonus if his recruiter had completed an Annex H form for the applicant at the time of his enlistment and incorporated it into his enlistment contract. The record further indicates that the applicant's QM classmates received the enlistment bonus upon successfully completing QM "A" School because their recruiters had completed Annex H. The applicant alleged that he had asked his recruiter about an enlistment bonus for enlistees with prior military service and was erroneously told he was not eligible for one.
3. The record indicates that while still in boot camp the applicant signed up for QM "A" school based on the belief that he would receive the enlistment bonus, which he learned about at a presentation by the Command Master Chiefs. However, while completing the paperwork for his enrollment in QM "A" School, the applicant was advised that he was ineligible for the bonus because his recruiter had failed to

complete Annex H. The Chief Counsel of the Coast Guard has admitted that this advice was erroneous because the training center had independent authority to make trainees who enrolled in an "A" School for a critical rating eligible for the bonus. The applicant relied on the erroneous advice to his detriment.

4. To his credit, the applicant agreed to attend QM "A" School and enter a rigorous seagoing career despite being told (erroneously) that he could not become eligible for the bonus. He successfully completed the school but did not receive the bonus. In light of the above findings and the particular circumstances of this case, the Board finds that the applicant's failure to receive the \$8,000 enlistment bonus constitutes a significant error and injustice in his record.

5. Accordingly, the applicant's request should be granted by adding an Annex H into his enlistment contract to make him eligible for the bonus.

**ORDER**

The application of xxxxxxxxxxxxxxxxxxxxxxxx, USCG, for correction of his military record is granted.

His enlistment contract shall be corrected to include an Annex H, completed so as to make him eligible for the enlistment bonus authorized for members who successfully completed QM "A" School.

The Coast Guard shall pay him any sum he may be due as a result of this correction.

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Julia Andrews

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George J. Jordan

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Kathryn Sinniger