

**DEPARTMENT OF TRANSPORTATION
BOARD FOR CORRECTION OF MILITARY RECORDS**

Application for Correction of
Coast Guard Record of:

BCMR Docket No. 2001-088

FINAL DECISION

ULMER, Chair:

This proceeding was conducted according to the provisions of section 1552 of title 10 and section 425 of title 14 of the United States Code. It was docketed on May 23, 2001, upon the Board's receipt of a complete application for correction of the applicant's military record.

This final decision, dated March 28, 2002, is signed by the three duly appointed members who were designated to serve as the Board in this case.

Requested Relief

The applicant, an electronics technician second class (ET2; pay grade E-5), asked the Board to correct his record by canceling the 6-year reenlistment contract he signed on April 7, 2001, and replacing it with a one-month extension of his original enlistment. He requested that his record be further corrected to show that he reenlisted on or after April 8, 2001, which he claimed would allow him to obtain an SRB payment as an E-5 with over four years of service rather than the SRB payment he received as an E-5 with over three years of service. (When the applicant reenlisted on April 7, 2001, he received an SRB with a multiple of 3 based on pay grade E-5 with over three years of service.)

The applicant stated that "[d]ue to an administrative miscalculation, [his] exact date of over 4 service should have been 8 April 2001, instead of [his] reenlisting on 7 April 2001." The applicant claimed that rather than reenlisting at the expiration of his enlistment (April 6, 2001), he could have extended for one month under ALCOAST 127/01 and "then reenlisted in May 2001 for over four pay."

The applicant submitted a statement from the chief yeoman of the unit that completed the processing of his reenlistment documents. This individual stated that ALCOAST 127/01 was published after the applicant's reenlistment document processing had begun and no one at the unit thought to re-review the documents in light of the ALCOAST 127/01. The chief yeoman

believed that the applicant could have extended for one month and then reenlisted under the ALCOAST, if he had been counseled to do so.

ALCOAST 127/01

This ALCOAST was issued on March 27, 2001, and explained that it was necessary for the Coast Guard to review SRB multiples earlier than planned, in light of its current budgetary climate. It announced the SRB multiples effective through April 30, 2001, the multiples that would become effective on May 1, 2001, and the multiples that would become effective on October 1, 2001. In all three phases, the SRB multiple for the ET rating was 3, but for some other ratings the SRB multiples either decreased or increased. On average the October 1 multiples were higher than the May 1 multiples.

The ALCOAST provided for the following:

In order to take advantage of the October 1 multiples, commanding officers may authorize short term extensions up to 6 months to expire NLT 31 October 2001 for members whose normal expiration of enlistment falls between the date of this ALCOAST and 30 September 2001, and have a October 1 SRB multiple . . . Upon the expiration of their short-term extension, members must reenlist or extend in October 2001 for a minimum of three years additional obligated service to receive the SRB.

Views of the Coast Guard

On September 21, 2001, the Board received an advisory opinion from the Chief Counsel of the Coast Guard recommending that the Board deny the applicant's request for relief.

The Chief Counsel stated that there is no mechanism that would allow a member on a first four-year enlistment to have more than four years of active duty prior to an extension or reenlistment. He stated that the applicant is mistaken in his belief that he could have extended for one month under the ALCOAST to ensure that he had more than four years of service for pay purposes. In this regard, the Chief Counsel stated the following:

The pertinent language of ALCOAST 127/01 states: "In order to take advantage of the October 1 multiples, commanding officers may authorize short term extensions up to 6 months to expire NLT 31 October 2001 for members whose normal expiration of enlistment falls between the date of this ALCOAST and 30 September 2001, and have an October 1 SRB multiple." . . . This message does not allow short-term extensions for purposes of increasing a member's longevity pay status. Rather, the plain language of this ALCOAST makes it clear that short-term extensions will be permitted in order to allow a member to take advantage of the October 1, 2001 multiple. The multiple that applicant received for his reenlistment on 7 April 2001 was "3" per ALCOAST 488/00. The October 1, 2001, multiple for Applicant's rating is also "3". . . . Thus the October 1 SRB multiple for Applicant's rating remained the same.

The Chief Counsel stated that the applicant enlisted on April 7, 1997, and had an end of enlistment date of 6 April 2001, and therefore, he had to reenlist or extend on or before April 7, 2001. He stated that no matter what date the applicant reenlisted or extended, he would not be “over 4” base pay status. He stated that the applicant’s situation is not unique and that no error or injustice occurred in this case.

Applicant Reply to the Views of the Coast Guard

On September 25, 2001, the Chairman sent the applicant a copy of the views of the Coast Guard and invited him to respond within 15 days. No response was received from the applicant.

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 submission, and applicable law.

1. The Board has jurisdiction concerning this matter pursuant to section 1552 of title 10, United States Code. The application was timely.

2. The applicant’s original enlistment expired on April 6, 2001. The applicant was required to either extend or reenlist at that time. He chose to reenlist for which he received an SRB bonus with a multiple of 3 as an E-5 with over three years of service. There was no miscalculation. The applicant would not have over four years of service until April 8, 2001, the day after he was required either to extend or reenlist. According to the SRB regulation, if a member reenlists exactly at the four-year point, the member will be paid an SRB with over three years of service.

3. The applicant could have executed a short-term extension under ALCOAST 127/01 to gain eligibility for an SRB, but not to gain longevity for pay purposes. The Board is persuaded in this finding by the language of the ALCOAST, which stated, “In order to take advantage of the October 1 multiples, commanding officers may authorize short term extensions” The ALCOAST did not authorize short-term extensions for individuals for the purpose of increasing longevity for pay purposes. The ALCOAST under review, attempted to correct an injustice that had occurred to those individuals who suffered a loss of SRB entitlement due to the early convening of the SRB panel, which was necessitated by budgetary concerns. To correct his situation, the Coast Guard permitted short-term extensions to allow those affected individuals an opportunity to have an SRB or higher multiple.

4. The applicant has not demonstrated that he suffered an error or injustice in this case. He reenlisted for six years at the end of his original enlistment and received an SRB multiple of 3. There was no requirement that the Coast Guard counsel members on ways to engineer a larger SRB payment than that authorized under the SRB regulation. Under the SRB regulation, a service member receives the SRB multiple that is in effect at the time of reenlistment or when he executes his extension agreement. That is the applicant’s situation.

5. The multiple for the applicant's rating was 3 in April 2001 and it was 3 in October 2001. Therefore, there was no need for a short-term extension in the applicant's case. The applicant received the SRB to which he was entitled on April 7, 2001.

6. Accordingly, the applicant's request for relief should be denied.

ORDER

The application of _____, USCG, for correction of his military record, is denied.

Cynthia B. Walters

Mark A. Holmstrup

L. L. Sutter