



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 940-01
19 July 2001

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting that her record be corrected to show entitlement to the Montgomery G. I. Bill (MGIB).

2. The Board, consisting of Mr. Cooper, Mr. Lightle and Mr. McPartlin, reviewed Petitioner's allegations of error and injustice on 17 July 2001 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 17 March 1998 at age 21 and elected to participate in the MGIB. She then served in an excellent manner for over 28 months. On 1 August 2000 she was notified of separation processing by reason of convenience of the government due to pregnancy. On 1 August 2000 the discharge authority directed an honorable discharge and the assignment of a Separation Program Designator (SPD) of "JDF", which indicates that her discharge was involuntary. She was honorably discharged on 11 August 2000. However, the DD Form 214 issued at that time shows that she was assigned an SPD of KDF which indicates here discharge was voluntary. At the time of discharge she had completed 2 years, 4 months and 25 days of active service.

d. On 3 October 2000 the discharge authority sent a letter to the Navy Personnel Command which states, in part, as follows:

... (Petitioner) requested to be separated from the U. S. Navy due to pregnancy. She is married to a sailor onboard USS ARCTIC (AOE 8). To avoid administrative separation of both service members due to parenthood, I separated her locally. (She) did not intend on complying with the Dependent Care Certificate once the child was born, therefore separation for Pregnancy was warranted.

The letter concludes by stating the discharge was honorable with an SPD code of KDF.

e. Petitioner is not eligible for the MGIB because she did not complete 30 months of active duty. Further, there is no provision in the law which would allow Petitioner's \$1,200 MGIB payment to be refunded to her. However, she would be eligible for prorated payments under the MGIB based on her almost 29 months of active service if her separation was involuntary. As previously noted, the SPD of KDF indicates that her discharge was voluntary. Therefore, she is being denied all MGIB benefits. An SPD of JDF would indicate that her separation was involuntary and she would be entitled to at least 28 months of MGIB benefits.

f. Petitioner states that she was unaware of the 30 month service requirement and could have served another 35 days if she had known of the requirement. Therefore, she is requesting that her record be corrected to show an additional 35 days of service.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Concerning her request for an additional 35 days of active duty, the Board concludes that the facts of this case did not warrant such relief, which would give her pay and allowances for that period. However, the Board notes that although she apparently requested discharge, it appears that had she not requested discharge, she eventually would have been processed for an involuntary separation due to her inability to provide a valid dependent care certificate. Given the circumstances, including her satisfactory record of service, the Board concludes that Petitioner's SPD should be changed to JDF so that she can obtain at least 28 months of MGIB benefits.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that

on 11 August 2000 she was assigned a Separation Program Designator (SPD) of JDF vice the SPD of KDF now of record.

b. That her record for additional service be denied.

c. That this Report of Proceedings be filed in Petitioner's naval record.


4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



for W. DEAN PFEIFFER
Executive Director