



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

LCC:ddj
Docket No: 8675-00
20 March 2001



This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 March 2001. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum 7220 SER N130C3/01U0081 of 7 March 2001, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure




DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO
7220
Ser N130C3/01U0081
7 Mar 2001

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTIONS
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, Pers-00XCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO


Ref: (a) Joint Federal Travel Regulations, Volume 1

Encl: (1) BCNR Case File #08675-00 w/Microfiche Service
Record

1. Per your request, the following recommendation concerning enclosure (1) is provided.
2. The petitioner is requesting retroactive payment of Basic Allowance for Housing (BAH) based on last Permanent Duty Station rates (Washington, DC) vice dependents location (Bunker Hill, WV) due to PCS reassignment to a dependent restricted tour (NAVCOMTELSTA, Diego Garica).
3. IAW reference (a) para. U9301-A, a member with dependents who is reassigned from an OCONUS Permanent Duty Station (PDS) to a dependent restricted or unaccompanied tour at an OCONUS PDS may be authorized to receive station allowances at the old PDS rate, provided the dependents remains in the vicinity of the old PDS. In this case the member's old PDS was not OCONUS so this article of the JFTR does not apply.
4. A review of enclosure (1), revealed that the petitioner was reassigned from a PDS in CONUS (JOINT CHIEF OF STAFF, Washington, DC) and his dependents remained in the same residence as when the member served at the old PDS. IAW reference (a) article U5222-D1, the member is entitled to housing allowances at a place designated by him as the dependent's residence when the member is assigned a dependent restricted tour. A housing allowance at the old PDS is not authorized. Therefore, the petitioner is not eligible for station allowances based upon the old PDS rate, but is entitled to BAH based on dependent location.



Head, Travel and Transportation
Allowances Section (N130E)