



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

LCC:lc  
Docket No.8696-00  
19 October 2001

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subject: [REDACTED]

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

Encl: (1) DD Form 149 w/attachments  
(2) E-mail from MSgt Hull, Career Counselor  
(3) CMC memo 1400/3, MMPR-2, 12 Feb 01  
(4) Petitioner's Microfiche

1. Pursuant to the provisions of reference (a), subject, hereinafter, referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show Petitioner is entitled to remedial promotion consideration to paygrade E-8 for the CY96 Active Reserve (AR) Staff Noncommissioned Officer (SNCO) Selection Board for Military Occupational Specialty (MOS) 8412.

2. The Board, consisting of Messrs. Kastner, McPartlin, and Ms. McCormick reviewed Petitioner's allegations of error and injustice on 16 October 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 justice, finds as follows:

a. Prior to filing enclosure (1) with this Board, Petitioner exhausted all administrative remedies afforded under existing law and regulations with the department of the Navy.

b. Petitioner completed his Professional Military Education (PME) on 16 October 1996 and checked his personnel records to insure it reflected the completion date. The CY96 AR SNCO Selection Board met on 26 October 1996.

c. After the Board reported out Petitioner was informed that he had failed selection for promotion. He discussed his failure of selection with his career counselor who told him his failure was due to keen competition and that his physical fitness test (PFT) score was not in the system.

d. Petitioner immediately submitted a request for remedial promotion but the Sergeant Major of MCRSC told him he didn't have a good reason to submit the request so Petitioner did not pursue the matter.

e. There were no allocations for MOS 8412 in CY97 and CY98. Petitioner again failed of selection when the CY99 AR SNCO Selection Board met. He discussed his situation with his career counselor and was informed that the Board did not find him fully qualified for promotion because his records did not show that his PME had been completed.

f. This time when Petitioner submitted his request for remedial promotion consideration to paygrade E-8 the request was forwarded to Headquarters Marine Corps (HQMC). Petitioner requested that he be given remedial consideration for CY96 and CY99. He was given remedial consideration for promotion for CY99 to paygrade E-8 and was selected for promotion.

g. HQMC gave him remedial consideration for promotion only for CY99 because his package had been submitted over 3 years after the results of the CY96 selection board had been released. HQMC did not take into consideration that Petitioner had attempted to submit a request for remedial consideration after the board results had been released for CY96 and the Sergeant Major of MCRSC had informed him he didn't have a good reason to submit the request.

h. The requirement for PME to be completed before a servicemember can be considered as fully qualified for promotion became a requirement in 1997. HQMC states that since it was not a requirement prior to 1997 it cannot be used as a reason to request remedial promotion.

i. Petitioner responds that he was informed by MSgt Hull, his career counselor, that his records were marked as being "less than fully qualified due to noncompletion of PME" for both the 1996 and the 1999 AR SNCO Selection Boards. See enclosure (2). As a result he was not given a fair and equitable opportunity for promotion to paygrade E-8 in CY96.

j. In correspondence attached as enclosure (3), the office having cognizance over the subject matter involved in Petitioner's application recommends denial, commenting that PME requirements for promotion for reserve Marines did not become effective until October 1997, so no basis exists to grant Petitioner remedial consideration for the CY96 AR SNCO Reserve Selection Board.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (3), the Board finds the existence of an injustice warranting the requested relief. In this connection, the Board believes that Petitioner was not given an equitable opportunity for promotion along with his peers when his record was identified as being "less than fully qualified" because his PME had not been completed and his record erroneously indicated that he had not completed his PFT. The Board opined that competition at the senior grades is extremely competitive and selection board members look for a way to identify an individual as not being fully qualified as a means to not select individuals for promotion. Since Petitioner's PME and PFT had been completed prior to the Board meeting his records should not have been identified as "less than fully qualified". To create parity with his peers Petitioner should be given remedial consideration for promotion for the CY96 AR SNCO Selection Board. Moreover, Petitioner tried to comply with the rule HQMC requiring applications be submitted within 3 years of the board results however his sergeant major advised him he did not have a sound basis for submitting such a request.

Accordingly, the Board recommends the following corrective action.


RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, to show that:

a. Petitioner will be given remedial promotion consideration for promotion to paygrade E-8 for the CY96 Active Reserve Staff Noncommissioned Officer Selection Board.

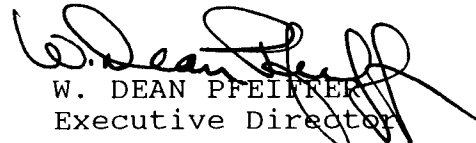
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above-entitled matter.

ROBERT D. ZSALMAN  
Recorder

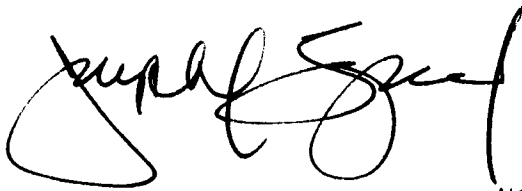
  
G. L. ADAMS  
Acting Recorder

Docket No. 8696-00

5. The foregoing action of the Board is submitted for your review and action.

  
W. DEAN PFEIFFER  
Executive Director

Reviewed and approved:



NOV 28 2001

**JOSEPH G. LYNCH**  
Assistant General Counsel  
(Manpower And Reserve Affairs)