



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

JRE
Docket No: 4001-01
19 August 2002

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

Subj: FORMER [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149
(2) Dir, NCPB ltr 5220, Ser: 02-06, 15 May 02
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that her naval record be corrected to show that no deduction was made from her disability rating for an existed prior to entry (EPTE) factor.
2. The Board, consisting of Messrs. Pfeiffer, Kastner and Schultz, reviewed Petitioner's allegations of error and injustice on 8 August 2002 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. Although, it appears that enclosure (1) was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.
 - c. In correspondence attached as enclosure (2), the Director, Naval Council of Personnel Boards expressed the opinion that the deduction of a 10% EPTE factor from Petitioner's disability rating was erroneous. He recommended that her record be corrected to show that she was transferred to the Temporary Disability Retired List (TDRL) with a 30% rating on or about 10 August 1990. As her condition improved over the next year, her rating would have been reduced to 10% in early 1993, and her name would have been removed from the TDRL, and she would have been discharged with entitlement to disability severance

pay.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:


a. That Petitioner's naval record be corrected to show that she was not discharged on 10 August 1993.

b. That Petitioner's naval record be further corrected to show that on she was released from active duty on 10 August 1990, and transferred to the TDRL the following day with a disability rating of 30% under VA code 8199-8100, pursuant to 10 U.S. Code 1202; and that she was discharged by reason of physical disability on 1 March 1993, pursuant to 10 U.S. Code 1203, with a 10% rating under VA code 8199-8100.

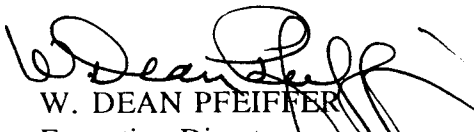
b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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


JAMES R. EXNICIOS
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.


W. DEAN PFEIFFER
Executive Director