



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

LCC:lc
Docket No.7990-01
16 April 2002

From: Chairman, Board for Correction of Naval Records

To: Secretary of the Navy

Subj: [REDACTED]
Review of naval record

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

Encl: (1) DD Form 149 w/attachments
(2) ALMAR 336/96
(3) Promotion warrant to sergeant, paygrade E-5
(4) CMC letter, 1430 MMPR-2, 19 Dec 96
(5) Commanding Officer's nomination ltr, 11 Oct 96
(6) CMC memo 1400/3, MMPR-2 of 4 Feb 02
(7) Subject's microfiche record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed written application, enclosure (1), with this Board requesting, in effect, the applicable naval record be corrected to show that Petitioner was promoted to Sergeant, paygrade E-5, effective 2 November 1996.

2. The Board, consisting of Messrs. Mackey, Pauling, and Ms. McCormick reviewed Petitioner's allegations of error and injustice on 9 April 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. Prior to filing enclosure (1) with this Board, Petitioner exhausted all administrative remedies afforded under existing law and regulations within the Department of the Navy.

b. Petitioner was selected for meritorious promotion to paygrade E-5 and promoted effective 2 November 1996.

c. Petitioner was assigned to the 4th Assault Amphibian Battalion, Tampa, FL and was nominated to be considered for meritorious promotion. At the time her commanding officer was on Temporary Additional Duty (TAD). The nomination package was

prepared, addressed to Commanding General, 4th Marine Division (PERS) 4400 Dauphine Street, New Orleans, LA 70146-5400 and forwarded to the commanding officer for signature. Unfortunately, the commanding officer read the ALMAR 336/96 incorrectly, enclosure (2), and forwarded her nomination package directly to Headquarters Marine Corps, MMPR-2.

d. The Marine Corps orders pertaining to meritorious promotion state that promotion packages will be sent to MMPR-2 for commands not under a commanding general. MMPR-2 received the meritorious promotion nomination package on Petitioner and considered her for promotion.

e. Petitioner was selected for promotion which was effective 2 November 1996. The Commandant signed the promotion warrant and it was forwarded to Petitioner, enclosure (3).

f. On 19 December 1996 MMPR-2 revoked the promotion because Petitioner was erroneously considered for promotion by MMPR-2, enclosure (4). Petitioner should have been considered by the 4th Marine Division since the unit had a commanding general and not by MMPR-2. MMPR-2 stated in the revocation letter that since she should not have been considered it was an erroneous promotion and could not remain in effect. MMPR-2 further stated in the letter that Petitioner had not completed Professional Military Education requirements (PME). Petitioner's PME requirements had been completed prior to being nominated by her commanding officer for meritorious promotion. PME courses were completed on or before 1 October 1996. The letter nominating Petitioner for meritorious promotion was dated 11 October 1996, signed by her commanding officer and indicated PME had been completed on 1 October 1996, enclosure (5).

g. In correspondence attached as enclosure (6), the office having cognizance over the subject matter involved in Petitioner's application recommended denial, commenting that since she did not compete for one of the meritorious promotion allocations granted to the 4th Marine Division her meritorious promotion was revoked. Enclosure (6) also states that Chapter 1, paragraph 1200.4b(1) of the Enlisted Promotion Manual provides that when erroneous promotions or administrative error to sergeant (E-5) and below are discovered, the commander, without reference to Headquarters Marine Corps will revoke the promotion and the Marine will be returned to the appropriate grade. Waivers for erroneous promotions to corporal or sergeant are not authorized.

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (6), the Board finds the existence of an injustice warranting the requested relief. In this connection, the Board concluded that an injustice to the Petitioner had occurred. Specifically the meritorious nomination promotion package was sent to MMPR-2 in error which was not caught until approximately six weeks after the effective date of the promotion. Had the error been caught in a timely manner the package could have been returned to the 4th Marine Division in time for them to consider Petitioner for promotion. The promotion was revoked which leaves Petitioner without having been considered for promotion during this period of time. In order to make Petitioner whole the Board concluded that the promotion should be effective 2 November 1996, which was the date she was selected for meritorious promotion by the promotion board convened by MMPR-2. Accordingly, the Board recommends the following corrective action.

RECOMMENDATION:

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

a. Petitioner was promoted to paygrade E-5 effective 2 November 1996.

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 Boards proceedings in the above-entitled matter.

ROBERT D. ZSALMAN
Recorder


G. L. ADAMS
Acting Recorder

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


W. DEAN PFEIFFER

Reviewed and approved: JUL 10 2002

