



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

LCC
Docket No. 11082-09
25 Jan 11

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

Subj: REVIEW OF NAVAL RECORD ICO
[REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) NPC letter 5420 Ser PERS 41/072 of
15 March 2010
(3) CNO 7220 Ser N130C/10U0039 of 11 January 2010
(4) NAVSUPSYSCMD memorandum 4050 Ser 53E/134 of
7 December 2009
(5) Excerpts from Subject's naval record and JTFR

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 that Petitioner is entitled to reimbursement for the cost of moving his family and household goods (HHG) from Williamsburg, VA to Sasebo, Japan.

2. The Board, consisting of Messrs. Exnicios, George, and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 21 December 2010 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. In June 2007, Petitioner was issued Permanent Change of Station (PCS) orders from COMNAVPERSCOM, Millington, TN to the USS Essex LHD 2, Homeport Sasebo, Japan for duty as Executive Officer (XO) reporting NLT September 2007 with a Projected Rotation Date (PRD) of March 2009. His XO tour was unique because he was chosen to participate in a new program where, upon successful completion of the XO tour, he would be reassigned as the ship's commanding officer.

c. While serving as XO, he was engaged to be married. His fiancée resided in Williamsburg, VA. His wedding was initially scheduled for May 2009.

d. The Director, Surface Officer Distribution Division, PERS 41, gave assurances that if Petitioner married prior to reassignment as the commanding officer position, he would be entitled to the travel of his newly acquired dependents to Sasebo at government expense. Enclosures (1) and (2).

e. When Petitioner learned that he would, in fact, be reassigned to the commanding officer position, he moved the date of his wedding from May 2009 to January 2009 to ensure his newly acquired dependents would be eligible for travel to Sasebo at government expense.

f. When COMNAVPERSCOM ultimately issued the orders to reassign Petitioner to the commanding officer position, rather than issuing a "new" set of PCS orders, they (COMNAVPERSCOM) issued a modification to Petitioner's original orders (which were previously issued in June 2007). The modification directed Petitioner to detach duty as Executive Officer in August 2009 and report immediately as Commanding Officer, USS Essex. His PRD was adjusted to February 2011. No funding citation was included in the orders modification. Without orders containing a funding citation, travel of dependents and shipment of HHG at government expense was not authorized.

g. In hindsight, Petitioner could have been issued "In Place Consecutive Overseas Tour" (IPCOT) orders and authorized dependent travel under JFTR, U5258G, payment of Dislocation Allowance, JFTR, paragraph U5630G.8, and shipment of HHG, JFTR paragraph U5370.I. However, IPCOT orders were not issued. Enclosures (3) and (4).

h. Petitioner elected to move his newly acquired dependent's at his own expense, even though his orders did not authorize reimbursement. Thereafter, he petitioned this Board seeking a change that would entitle him to reimbursement. He cites the benefit to the Navy of having his spouse with him in Sasebo.

i. Petitioner's application was staffed to the following offices within the Navy for review and comment: The Navy Personnel Command (PERS 41), the Chief of Naval Operations (CNO Code N130), and the Navy Supply System's Command (NAVSUPSYSCMD). PERS 41 recommends that if possible the request should be approved because of commitments that were made to the Petitioner. N130 recommends that no relief be granted because the reassignment did not require any travel by the Petitioner and because Petitioner elected to move his dependents at his own expense. NAVSUPSYSCMD states that shipment of the dependent's belongings are not authorized at Government expense unless he has been issued PCS or In Place Consecutive Overseas Tour (IPCOT) (JFTR U5370-I) order authorizing shipment of HHG. Enclosures (2) (3) and (4).

CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding the comments contained in enclosure (3), the Board concludes that Petitioner's request warrants favorable action. The Board carefully considered the recommendation offered by N130 in enclosure (3). However, the Board agreed more with the recommendation offered by PERS 41 that relief should be granted because this was a unique reassignment, assurances had been made to Petitioner that the dependent travel would be reimbursed, and the request for reimbursement was "fair and reasonable" under the circumstances.

RECOMMENDATION:

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

a. On 7 April 2009 COMNAVPERSCOM, Millington, TN issued to the Petitioner an IPCOT order reassigning him to the position of Commanding Officer of the USS Essex when directed in August 2009 vice issuing a modification to the PCS orders issued in June 2007.

b. The IPCOT orders authorized travel of authorized dependents, payment of dislocation allowance, and shipment of HHG at government expense.

(NOTE: Petitioner should go to the closest facility which can compute travel vouchers and request them to compute monies due for this action. Petitioner must present to the Agency computing the money due a copy of the receipts pertaining to the travel from Williamsburg, VA to Sasebo, Japan. The Agency making the computation of monies due will not make the payment but will give the computations to the Petitioner who will in turn forward them to DFAS-IN, 8899 East 56th Street, Department 3300 (Attn: COR/CLAIMS), Indianapolis, IN 46249-3300. Reimbursement amount will not exceed the amount that would have been expended by the government if the move had been authorized earlier.)

The Petitioner will forward a copy of this letter, a copy of all receipts pertaining to shipment, mailing, and storage of HHG to the Business Support Dept FISCN, HHG Audit Team Division, Code 302, 1968 Gilbert Street STE 600, Norfolk, VA 23511-3392. The telephone number of the HHG Section, Norfolk, VA is 1-888-742-4467.)

c. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

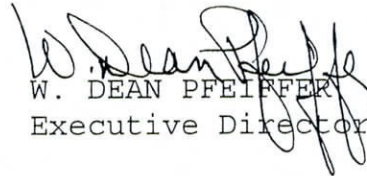
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



WILLIAM J. HESS, III
Acting Recorder

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


W. DEAN PFEIFFER
Executive Director

Reviewed and Approved



2/24/11

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