



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
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ARLINGTON VA 22204-2490

BAN
Docket No. NR03279-14
17 December 2014

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) Navy Personnel Command (NPC) 1430 Ser 812/0241 of 5 Aug 2014
 - (3) Special Request Chit date 28 Mar 2010
 - (4) Naval Education and Training Professional Development and Technology Center (NETPDTC) August 2010 Reserve Navy-wide advancement exam Profile Sheet
 - (5) Commanding Officer, Navy Operational Support Center, (NOSC), Las Vegas, Nevada, frocking ltr 1420 Ser 00/242 of 10 Nov 2010
 - (6) Commander Navy Personnel Command (COMNAVPERSCOM) Orders 031630Z Mar 11
 - (7) Email correspondence

1. Pursuant to the provisions of reference (a) Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show that she was frocked to E6/PS1 from the August 2010 Navy-Wide Reserve advancement exam and was allowed to retain the advancement to E6/PS1 when she transferred to active duty on 28 March 2011, with an effective date of advancement of 16 June 2011.

2. The Board, consisting of [REDACTED], reviewed Petitioner's allegations of error and injustice on 5 November 2014 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. The Board also considered enclosure (2) which is a recommendation from Naval Personnel Command (NPC) that no relief be granted.

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. On 28 March 2010, Petitioner voluntarily submitted a special request chit through her chain of command, to be recalled to active duty as a Navy Reserve Canvasser Recruiter (CANREC), which was approved, enclosure (3).

c. In August 2010, Petitioner was eligible and participated in the E6/PS1 Reserve Navy-wide advancement examination.

d. On 8 November 2010, Petitioner was notified that she was selected for 1st Class Petty Officer with an effective date of 16 June 2011, enclosure (4). On 10 November 2010, was frocked to E6/PS1 while serving at the Navy Operational Support Center (NOSC), Las Vegas, Nevada, enclosure (5).

e. On 3 March 2011, Petitioner received orders to return to Active Duty as a CANREC, enclosure (6). However, her orders were for a 2nd Class Petty Officer. Although her orders stated specifically to submit a request to PERS 812 for advancement to E6/PS1, Petitioner claims she did not deem it necessary, nor did her chain of command, due to the written statements made by the career counselor and other email correspondence, enclosure (7).

f. On 23 March 2011, Petitioner reported aboard her new command as a CANREC. At that time, she believed that she was still a frocked 1st Class Petty Officer. It wasn't until mid-June 2011 that she noticed that she was not receiving E6 pay, which should have been effective 16 June 2011.

g. After some investigation by her now current command, and after eight months of wearing E6/PS1, she was told by her command that she had not been advanced to E6/PS1 when she transferred to active duty.

h. In September 2011, Petitioner participated in the E6/PS1 active duty Navy-wide advancement exam and was selected for advancement. Petitioner is now requesting from BCNR to have her advancement backdated to her August 2010 Reserve advancement

examination with an effective date of 16 June 2011 while on active duty.

j. By enclosure (2), NPC recommended that no relief be granted. NPC indicated that "...advancement based on previous active/inactive duty exam is not authorized without PERS 81 approval. PERS 812 never received an advancement determination on the member". Furthermore, they stated that per transfer to Canvass Recruiter (CANREC) on active duty, was based on her rank of E5/PS2 and not E6/PS1. Although it is unfortunate, NPC's recommendation is to disapprove PS2 Moser's petition.

MAJORITY CONCLUSION:

Upon review and consideration of all the evidence of record, the majority, [REDACTED] concludes that Petitioner's request warrants favorable action. Although the majority notes that in both the advisory opinion and in Petitioner's orders to active duty state that her reserve advancement exam would not be authorized without prior PERS 81 approval, they believed that Petitioner made sufficient amount of attempts to request advancement via her change of command and her career counselor who should have requested an approval or a determination on her reserve advancement. Accordingly, the majority concludes that the record should be corrected to show that Petitioner was advanced while on active duty to E6/PS1 with an effective date of 16 June 2011.

MAJORITY RECOMMENDATION:

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

a. Petitioner's will retain her advancement to E6/PS1 from the August 2010 Reserve Navy-wide advancement examination when she transferred to Active Duty on 28 March 2011 with an effective date of 16 June 2011.

b. Petitioner will receive any and all back-pay and allowances that she may be entitled to from the effective date forward.

c. Petitioner's September 2011 Navy-wide advancement examination for E6/PS1 will be invalidated.

d. That a copy of the Report of Proceedings, be filed in the Petitioner's naval record.

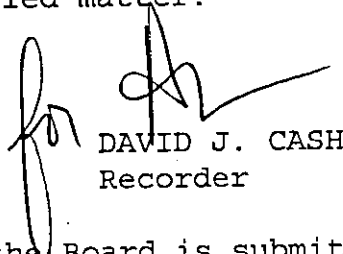
MINORITY CONCLUSION:

In reaching its conclusion, the minority member, [REDACTED], agrees with the unfavorable advisory opinion from NPC that states Petitioner "chose to remain a E5/PS2 on CANREC orders and to take the PS1 exam in September 2011" and that although "she was repeatedly advised in writing that she was a 1st Class Petty Officer, none of those emails were from PERS 812" (the authorizing agency). Therefore, in view of the foregoing, the minority recommends the following action:

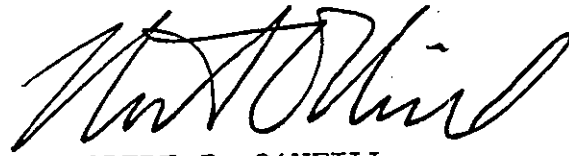
MINORITY RECOMMENDATION:

a. That Petitioner's request be denied.

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.

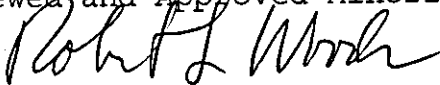

DAVID J. CASH
Recorder

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


ROBERT J. O'NEILL
Executive Director

Reviewed and Approved Majority:

~~Reviewed and Approved Minority:~~


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