

RCW 38.38.016 [Art. 4] Dismissal of commissioned officer. (1)

If any commissioned officer, dismissed by order of the governor, makes a written application for trial by court-martial, setting forth, under oath, that he or she has been wrongfully dismissed, the governor, as soon as practicable, shall convene a general court-martial to try that officer on the charges on which the officer was dismissed. A court-martial so convened has jurisdiction to try the dismissed officer on those charges, and the officer shall be considered to have waived the right to plead any statute of limitations applicable to any offense with which the officer is charged. The court-martial may, as part of its sentence, adjudge the affirmance of the dismissal, but if the court-martial acquits the accused or if the sentence adjudged, as finally approved or affirmed, does not include dismissal, the chief of staff to the governor or adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(2) If the governor fails to convene a general court-martial within six months from the presentation of an application for trial under this code, the chief of staff to the governor or adjutant general shall substitute for the dismissal ordered by the governor a form of discharge authorized for administrative issue.

(3) If a discharge is substituted for a dismissal under this code, the governor alone may reappoint the officer to such commissioned grade and with such rank as, in the opinion of the governor, that former officer would have attained had the officer not been dismissed. The reappointment of such a former officer may be made only if a vacancy is available under applicable tables of organization. All time between the dismissal and the reappointment shall be considered as actual service for all purposes.

(4) If an officer is discharged from the organized militia by administrative action or by board proceedings under law, or is dropped from the rolls by order of the governor, the officer has no right to trial under this section. [1989 c 48 s 4; 1963 c 220 s 4.]