



Australian Government

Defence Honours and Awards Appeals Tribunal

Watson and the Department of Defence [2015] DHAAT 08 (18 March 2015)

File Number(s) 2014/043

Re **Mr Ross Maxwell Watson**
Applicant

And **Department of Defence**
Respondent

Tribunal Ms C. Heazlewood (Presiding Member)
Brigadier M. Bornholt AM (Retd)

Hearing Date 19 February 2015

DECISION

On 18 March 2015 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Ross Maxwell Watson is not eligible for the award of the Naval General Service Medal 1915-62 with Clasp 'MALAYA'.

CATCHWORDS

DEFENCE AWARDS - Naval General Service Medal 1915-62 – qualifying service - naval service afloat

LEGISLATION

Defence Act 1903 – ss 110T, 110VB(2)
Defence Force Regulations 1952 – Reg 93C

United Kingdom Command Paper 7907 – The Naval General Service Medal, The General Service Medal (Army and Royal Air Force), Service in Malaya since 16th June 1948

Admiralty Fleet Order (AFO) 2466 of 1960 dated 23 September 1960

REASONS FOR DECISION

Introduction

1. The applicant, Mr Ross Watson (Mr Watson) seeks review of a decision of the Directorate of Honours and Awards of the Department of Defence (the Directorate) that he is not eligible for the award of the Naval General Service Medal 1915-62 with Clasp 'MALAYA' (NGSM 1915-62 with Clasp 'MALAYA'). On 13 December 2000 Mr Watson lodged an application for the award of his entitlements for his service during the Malayan Emergency 1955-60. On 11 December 2001 the Directorate advised Mr Watson that he was not eligible for the NGSM 1915-62 with Clasp 'MALAYA' as he had only rendered four days service afloat during the operation and was therefore short of the required twenty eight days. The Directorate informed Mr Watson that his service during the operation had qualified him and he was being recommended for the Australian Active Service Medal 1945-75 with Clasp 'MALAYA'.

2. On 25 May 2012 Mr Watson made application to the Directorate regarding his eligibility for the NGSM 1915-62 with Clasp 'MALAYA' and was once again refused on 13 June 2012. Mr Watson sought a review of this decision in his application to the Tribunal on 17 April 2014.

Tribunal Jurisdiction

3. Pursuant to s110VB(2) of the *Defence Act 1903* (the Defence Act) the Tribunal has jurisdiction to review a reviewable decision if an application is properly made to the Tribunal. The term *reviewable decision* is defined in s110V(1) and includes a decision made by a person within the Department of Defence to refuse to recommend a person for an award in response to an application. Regulation 93C of the *Defence Force Regulations 1952* defines a defence award as being those awards set out in Part 2 of Schedule 3. Included in the defence awards set out in Part 2 is the Naval General Service Medal 1915-62. Therefore the Tribunal has jurisdiction to review decisions in relation to this award

Conduct of the review

4. In accordance with its *Procedural Rules 2011*, on 14 May 2014, the Tribunal wrote to the Secretary of the Department of Defence informing him of Mr Watson's application for review and requesting that he provide a report. On 11 August 2014, the Directorate, on behalf of the Secretary, provided the Tribunal with a report. In that report the Directorate confirmed its position that Mr Watson's service did not meet the eligibility criteria for the award he sought. On 21 August 2014 the Tribunal forwarded a copy of the report of the Directorate to Mr Watson for comment. Having not received a response, a follow-up letter was sent on 21 October 2014. On 30 October 2014 Mr Watson phoned the Tribunal Secretariat and advised that he had 'accepted the umpire's decision'. Mr Watson was advised that this was the report of the Directorate and was not the final decision of the Tribunal. Mr Watson confirmed that he still wished the Tribunal to continue with a review of the decision.

Historical Context

5. The Malayan Emergency lasted from 1948 to 1960. During that time units from the three Australian services were deployed to Malaya or its waters.

Naval General Service Medal 1915-62 with Clasp 'MALAYA'

6. The NGSM 1915-62 was an imperial award instituted in 1915 for service in minor naval war-like operations. The NGSM 1915-62 with Clasp 'MALAYA' was established in 1950¹ to provide general recognition of service in the Federation of Malaya and the Colony of Singapore in the period since the state of emergency was declared, with special regard to the hardships and dangers which accompanied duty there. Eligibility criteria for the award included:

3.i. Naval Service Afloat. – The qualifying service will be twenty-eight days since 16th June, 1948, inclusive, in ships or craft patrolling off the Malayan coast in support of operations against bandits.

3.ii. Naval Service Ashore - The qualifying period will be service of one day or more on duty ashore in the Federation of Malaya attached to other eligible Forces or Police since 16th June, 1948, inclusive.

7. The declared operational area for the award was up to 12 nautical miles from the coast of Malaya including service in Singapore until 31 January 1959².

Mr Watson's Service Record

8. Mr Watson enlisted in the Royal Australian Navy for a six year specified term on 12 November 1952. His service record shows that he was posted to several warships before he was discharged on 11 November 1958 having completed his period of engagement.

9. Mr Watson's service relative to this application was aboard the light aircraft carrier HMAS *Vengeance* where he was a part of the ship's company from 12 August 1953 to 25 October 1955 and the Australian Q-class destroyer HMAS *Quiberon* (converted to an anti-submarine frigate in 1950) where he was posted from 4 January 1958 to 30 June 1958.

10. For his service in the Navy Mr Watson was awarded the:

- Australian Active Service Medal 1945-75 with Clasp 'Malaya',
- Australian Service Medal 1945-75 with Clasp 'FESR', and
- Australian Defence Medal.

¹ United Kingdom Command Paper 7907 – *The Naval General Service Medal, The General Service Medal (Army and Royal Air Force), Service in Malaya since 16th June 1948*

² *Review of Service Entitlement Anomalies in Respect of South-East Asian Service 1955-75* dated 29 Aug 2000

Defence's submission

11. On 11 December 2001 Defence responded to Mr Watson by letter to advise him that his service on HMAS Quiberon rendered four qualifying days service towards the NGSM 1915-62 with Clasp 'MALAYA' and he was therefore not eligible for the award as he had not served the required twenty eight days. On 13 June 2012 following a re-assessment by a medals assessor, the Directorate advised Mr Watson by telephone that he was not eligible for the NGSM 1915-62 with Clasp 'MALAYA' as he did not have twenty eight days Naval Service Afloat nor did he have one day or more on duty as Naval Service Ashore.

12. In the Defence submission dated 11 August 2014, the Directorate stated that as a result of Mr Watson's appeal to the Tribunal, his eligibility for the NGSM 1915-62 with Clasp 'MALAYA' had been re-assessed and it had been confirmed that he was not eligible for the award for the reasons previously specified. The Directorate's Assessment Working papers indicate that an examination of Mr Watson's service records show that he served on HMAS *Vengeance* from 12 August 1953 to 25 October 1955 and HMAS *Quiberon* from 4 January 1958 to 30 June 1958. An examination of both ships' qualifying service in the Malayan area of operations show that Mr Watson, whilst a crew member of these ships, accrued a total of four days qualifying service towards the award. The Directorate concluded that as Mr Watson did not aggregate twenty eight days or more qualifying service in the prescribed area of operations, he does not qualify for the NGSM 1915-62 with Clasp 'MALAYA'.

Mr Watson's Submission

13. Mr Watson spoke to the Tribunal by conference phone. He contends that as he was a member of the Royal Australian Navy and he had served aboard ships which deployed into the prescribed operational area for the Malayan Emergency, he was therefore entitled to the associated awards for this operation. He stated that HMAS *Quiberon* was allotted to the operation and he was therefore entitled to awards. He agreed that he had been awarded the Australian Active Service Medal 1945-75 with Clasp 'MALAYA' as he had met the eligibility criteria for this award – qualifying service of a minimum of one day in the prescribed operational area. Mr Watson also agreed that an examination of his records had correctly established that he had completed four days of qualifying service for the NGSM 1915-62 with Clasp 'MALAYA'. He acknowledged that the legislative requirements for the award were a total of twenty eight days in the prescribed operational area. Mr Watson was unable to provide any additional evidence in support of his application. During his oral evidence he indicated that several of his Navy colleagues had urged him to apply for the medal as he may have been entitled as a result of his service in the region.

Conclusion

14. There is no dispute about Mr Watson's service record and his postings to various HMA Ships between 12 November 1952 and 11 November 1958. The Tribunal's consideration focussed on the eligibility criteria of the NGSM 1915-62 with Clasp 'MALAYA'.

15. The Tribunal carefully considered Mr Watson's eligibility for the NGSM 1915-62 with Clasp 'MALAYA', and particularly the requirement that to be eligible for the award, one needed to render qualifying service of twenty eight days afloat. The Tribunal considered the periods that Mr Watson was posted to various ships which could have been allocated to the operation or had been in the prescribed operational area. The Tribunal reviewed evidence from ship's logs showing that HMAS *Vengeance* transited through the prescribed operational area during Mr Watson's tenure from 4-6 July 1955 when the ship berthed in Singapore on its decommissioning voyage to Devonport. The Tribunal did not consider this service could be classified as qualifying service for the purpose of this award.

16. The Tribunal reviewed the ship's log for HMAS *Quiberon* which shows that she conducted exercises off Singapore in the period 25-28 March 1958. The Tribunal considered that these four days were qualifying service in the prescribed operational area for the award of the NGSM with Clasp 'MALAYA'. The Tribunal noted from the log that following these exercises the ship left the prescribed operational area for Hong Kong. The ship's log shows that after leaving Hong Kong, HMAS *Quiberon* berthed in three ports – Tawau, Semporna and Lahad Datu from 19 April 1958 to 25 April 1958 before sailing for Australia. These ports are now in the province of Sabah. In 1958 however they were outside the prescribed operational area as the province of Sabah was part of British North Borneo. The Tribunal noted that even if these six days were added, Mr Watson's service would still fall well short of the 28 days required. The Tribunal endorsed the Directorate's decision not to include the extra six days when calculating Mr Watson's qualifying service because in the qualifying period the three ports were not part of Malaya.

17. The Tribunal determined that Mr Watson completed four days of qualifying service in the prescribed operational area from 25-28 March 1958 and therefore did not meet the eligibility criteria which requires qualifying service of twenty eight days Naval Service Afloat. For this reason, the Tribunal finds that Mr Watson is not eligible for the NGSM 1915-62 with Clasp 'MALAYA'.

DECISION

18. The Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Ross Maxwell Watson is not eligible for the award of the Naval General Service Medal 1915-62 with clasp 'MALAYA'.