



## Australian Government

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### Defence Honours and Awards Appeals Tribunal

## **Bradfield and the Department of Defence [2015] DHAAT 32 (6 July 2015)**

File Number(s) 2014/014

Re **Mr Stanley Edward Bradfield**  
APPLICANT

And **Department of Defence**  
RESPONDENT

**Tribunal** Brigadier Kevin O'Brien (Retd) (Presiding Member)  
Dr Jane Harte

**Hearing Date** 11 May 2015

### **DECISION**

On 6 July 2015 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Stanley Edward Bradfield is not eligible for the award of the Royal Naval Volunteer Long Service and Good Conduct Medal.

### **CATCHWORDS**

*DEFENCE AWARD – RAN Volunteer Long Service & Good Conduct Award*

### **LEGISLATION**

*Defence Act 1903 – Part VIII C - Sections 110 T, 110 V(1), 110 VB(2)*

*Defence Amendment Regulations (No 1) 2010 – Schedule 3 Part 2*

*Naval Reserve Regulations 1931- Long Service and Good Conduct Medal (LSGCM) Regulations*

*Commonwealth Navy Orders (CNO) 130/1942 – Award of the Volunteer Officer's Decoration and the Volunteer Long Service and Good Conduct Medal Regulations*

*Commonwealth Navy Orders 20/1951 – Badge for Citizen Naval Forces*

## **REASONS FOR DECISION**

### **Introduction**

1. The applicant, Mr Stanley Edward Bradfield (Mr Bradfield), a former member of the Royal Australian Navy (RAN), seeks review of a decision of the Directorate of Honours and Awards of the Department of Defence (the Directorate), to refuse to recommend him for award of the Royal Naval Volunteer Long Service and Good Conduct Medal (Volunteer LSGCM).
2. Mr Bradfield originally lodged an application for the Volunteer LSGCM on 26 February 2014 to the Defence Honours and Awards Appeals Tribunal. He was subsequently advised by the Tribunal that he should lodge any such application with the Directorate. As a result of this advice he lodged an application with the Directorate for the award of the Volunteer LSGCM on 8 April 2014. On 22 April 2014 the Directorate advised him that there would be a delay in responding to his application, which was finally considered and refused on the 27 June 2014. The basis for this refusal was that a search of records failed to find evidence that Mr Bradfield had served in the RAN Volunteer Reserve (RANVR) between 1946 and 1956.
3. On 24 January 2014, Mr Bradfield lodged an application for review with the Tribunal to appeal the Directorate's refusal to award the Volunteer LSGCM and this application was confirmed in writing by the Tribunal on 17 July 2014.

### **Tribunal Jurisdiction**

4. The Tribunal has jurisdiction to hear and determine Mr Bradfield's application for review (see s110VB of the *Defence Act 1903*, and *Defence Force Regulations 1952 Sch 3 Pt 2*). The role of the Tribunal is to determine whether the decision of the Directorate is the correct or preferred decision having regard to the applicable law and the relevant facts.
5. 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. Subsection 110V(1) of the *Defence Act 1903* gives the Tribunal jurisdiction to review a 'decision' of the Minister that is made in response to an application. A 'decision' is defined in section 110V(1)(a)(ii) to mean a decision that 'is or was a refusal to recommend a person for . . . a defence award'. A 'defence award' is defined in s110T of the *Defence Act 1903* to have the meaning that is given to this term in the *Defence Force Regulations 1952*. Regulation 93C of the *Defence Force Regulations 1952* provides that a 'defence award' is an award mentioned in Part 2 of Schedule 3 of the Regulation. The Royal Naval Volunteer LSGCM is mentioned in that part of Schedule 3.

### **Steps Taken in the Conduct of the Review**

6. In accordance with its *Procedural Rules 2011*, on 17 July 2014, the Tribunal wrote to the Secretary of the Department of Defence informing him of Mr Bradfield's application for review and requesting that he provide a report. On 17 December 2014,

the Directorate, on behalf of the Secretary, provided the Tribunal with a report. In that report, the Directorate confirmed its position that Mr Bradfield's service did not meet the eligibility criteria for the award of the Volunteer LSGCM. On 23 December 2014, a copy of the report of the Directorate was forwarded to Mr Bradfield for comment. Mr Bradfield made comment on the Defence submission on 8 January 2015.

7. The Tribunal met on 11 May 2015. During its meeting the Tribunal considered the material provided by Mr Bradfield and the Directorate. It also heard oral evidence from Mr Bradfield via telephone link-up on that date.

### **Eligibility criteria for the award of the Royal Naval Volunteer Long Service and Good Conduct Medal**

8. The eligibility criteria for awarding the Volunteer LSGCM contained in the *Naval Reserve Regulations, Statutory Rules 1931 No. 35, Part XVI – Long Service Decoration Medals* is as follows:

*161(1.) A man of the Royal Australian Naval Reserve or Naval Volunteer Reserve Forces having **twelve years' service**<sup>1</sup>, including service in the Senior Cadets above the age of fifteen years, may be granted a medal designated "the Volunteer Long Service and Good Conduct Medal" provided that his character has never been assessed below "very good" whilst under continuous training in camps or in H.M.A. Ships or Naval Establishments.*

9. The eligibility criteria were verified in *Commonwealth Navy Order 130/1942 – Award of the Volunteer Officers' Decoration and the Volunteer Long Service and Good Conduct Medal* – dated 26 May 1942, and is as follows:

(B) "*The Volunteer Long Service and Good Conduct Medal*"

*(1) A man may be granted the Medal after twelve years' service, including service in the Senior Cadets above the age of fifteen years, provided that character has never been assessed below "very good" whilst under continuous training in camps or in H.M.A. ships of Naval Establishments. Only service as "efficient" will be allowed to count towards the qualifying period but the service need not be continuous.*

10. The eligibility criteria were further stated in the *Regulations and Instructions (Provisional) for the Royal Australian Naval Reserve, Part XVII – Long Service Decoration and Medal* – dated 1 July 1953.

### **Mr Bradfield's Service Record**

11. Mr Bradfield enlisted in the Royal Australian Naval Reserve (RANR) on 20 August 1942 for a period of three years or the duration of the war plus six months

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<sup>1</sup> Highlight authors' own

(whichever was the lesser). After the end of the war, on 3 May 1946, he was demobilised and returned to civilian life. For his service, Mr Bradfield was awarded the 1939-45 Star; the Africa Star; the Burma Star with Pacific Clasp; the War Medal 1939-45; the Australia Service Medal 1939-45; and the Australian Service Medal 1945-75 with Clasps 'JAPAN' and 'SW PACIFIC'.

12. Mr Bradfield has advised that he responded to a request to join the RANVR shortly after the war ended and that he continued to remain enrolled until its completion. He understood that he remained enrolled until 1956. The scheme had the following relevant conditions of service:

- (a) *Enrolment will be to 31<sup>st</sup> December, 1952....*
- (b) ...
- (c) *Enrolment will be considered as effective as from the date of Demobilization, thus preserve your entitlement of service towards the award of the Volunteer L.S. & G.C. Medal and /or Clasp.*
- (d) ...
- (e) *There will be no obligation to perform any training prior to 30<sup>th</sup> June, 1952, ...*
- (f) ...
- (g) ...
- (h) *Upon enrolment you will be required to report by letter annually ...*
- (i) ...<sup>2</sup>

### **Mr Bradfield's Case**

13. Mr Bradfield believes that he met the conditions of service for the RANVR and remained enrolled until 1956. Mr Bradfield provided photographic evidence of him wearing a Naval Reserve Lapel Badge after 1952 but has not been able to provide any other documentary evidence of his RANVR service after that point.

### **The Directorate's Case**

14. In its written submission to the Tribunal, the Directorate responded to Mr Bradfield's claim for the award.

15. The Directorate accepts that Mr Bradfield served in the RANVR until the scheme concluded on 31 December 1952. However, the Directorate could find no evidence to support the claim that he served in the RANVR until 1956.

16. In regard to the wearing of the Naval Reserve Lapel Badge that was provided by Mr Bradfield as evidence of continuing service, the Directorate has advised that the Royal Australian Navy introduced a lapel badge for issue to members of all branches of the Naval Reserve Forces in 1951. The Directorate submitted that the badge was permitted to be worn on any occasion in plain clothes, and became the personnel property of the recipient on completion of their current engagement.

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<sup>2</sup> National Archives of Australia file MP150/1, 428/212/314, included in the Defence Submission dated 17 December 2014.

17. The Directorate submitted that issue of a badge to Mr Bradfield supports him being a member of the RANVR when the badge was introduced. However, it cannot be accepted as being proof of service past 31 December 1952, as the scheme in which he was enrolled, concluded on that date.

18. The Directorate now accepts that Mr Bradfield has an aggregate of 10 years, four months and 11 days service, comprising his service in the RANR and the RANVR, towards the requirement for the award of the Volunteer LSGCM. The Directorate holds therefore that Mr Bradfield does not qualify for the Volunteer LSCGM as he had not completed 12 years of service.

### **Tribunal Consideration**

19. The Tribunal carefully considered all the material before it and considered the criteria for the Volunteer LSGCM.

20. There is no dispute about Mr Bradfield's service record and his subsequent demobilisation after World War II after completing his term of enlistment. There is also no dispute that Mr Bradfield continued his service until 31 December 1952 in the RANVR, as is now accepted by the Directorate. The Tribunal considers that the wearing of the Volunteer Lapel Badge past this date does not provide evidence of Mr Bradfield's service continuing past 31 December 1952.

21. In his reply to the Directorate letter confirming their decision not to award him the Volunteer LSGCM, Mr Bradfield stated:

*"In my original letter dated January 24, 2014 I enquired about a medal which was to be issued to any person who had been in the Reserve Forces of the Commonwealth of Australia....As regards the LS&GCM this was just an afterthought...."*

22. At the hearing, Mr Bradfield indicated that the Volunteer LSGCM was what he assumed that he was eligible for, as he understood that he should have had medallion recognition for his service post World War II, but it would appear that the LSCGM was perhaps the incorrect medal to be applying for.

23. However, during the course of the hearing, it became apparent to the Tribunal that Mr Bradfield may have actually been seeking the Australian Defence Medal (ADM). The Tribunal has no jurisdiction to deal with primary applications for medallion recognition and accordingly Mr Bradfield is required to apply for the ADM, in writing, to the Directorate. Should he be unsuccessful in this application, Mr Bradfield could seek review of that decision by the Tribunal.

### **DECISION**

24. The Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Stanley Edward Bradfield is not eligible for the award of the Royal Naval Volunteer Long Service and Good Conduct Medal.