



Australian Government

Defence Honours and Awards Appeals Tribunal

Forbes and the Department of Defence [2015] DHAAT 19 (31 March 2015)

File Number(s) 2014/061

Re **Martin Robert Forbes**
 APPLICANT

And **Department of Defence**
 RESPONDENT

Tribunal Mr Mark Sullivan AO (Presiding Member)
 Mr Kevin Woods CSC, OAM

Hearing Date 31 March 2015

DECISION

On 31 March 2015 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Major Martin Robert Forbes (Retd) is not eligible for the award of the Papua New Guinea Independence Medal.

CATCHWORDS

Foreign Award – Papua New Guinea Independence Medal

LEGISLATION

Defence Act 1903 – ss 110T, 110VB(2)
Australian Government Gazette No S182 dated 16 September 1975
Papua New Guinea National Gazette No G49 dated 17 June 1977

Royal Warrants

Royal Warrant – Papua New Guinea Independence Medal - 2 September 1975
Royal Warrant – Papua New Guinea Independence Medal - 6 October 1976

REASONS FOR DECISION

Introduction

1. The applicant, Major Martin Robert Forbes (Retd) (Major Forbes) seeks review of the 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 Papua New Guinea (PNG) Independence Medal. Major Forbes had lodged an application for the award of the PNG Independence Medal on 12 May 2006. Defence responded on 12 March 2008 advising Major Forbes that he was not eligible for this award. Major Forbes sought review of this decision in his application to the Tribunal on 30 April 2014.

The Tribunal's Jurisdiction

2. Pursuant to s.110VB(2) of the *Defence Act 1903* (the Defence Act) the Tribunal has jurisdiction to review an application properly made to the Tribunal regarding a reviewable decision. The term *reviewable decision* is defined in s.110V(1) and includes a decision made by a person within the Department of Defence to refuse to recommend a person for a foreign award in response to an application. The Directorate made a decision to refuse to recommend Major Forbes for the PNG Independence Medal following his application. The Royal Warrant for the PNG Independence Medal was given under the Great Seal of Australia on 16 September 1975. The Government of Papua New Guinea issued its own Royal Warrant on 6 October 1976. While the administration of the award within Australia lies with the Directorate of Honours and Awards, the award is one given by a government of a foreign country and therefore meets the definition of *foreign award* set out in the Defence Act. This means that the Tribunal has jurisdiction to review the Directorate's decision.

Steps taken in the conduct of the Review

3. In accordance with the *Defence Honours and Awards Appeals Tribunal Procedural Rules 2011*, on 22 May 2014 the Tribunal wrote to the Secretary of the Department of Defence informing him of Major Forbes' application for review and requested that he provide a submission. On 5 September 2014, the Directorate on behalf of the Secretary provided the Tribunal with a written submission. A copy of the submission from the Directorate was forwarded to Major Forbes for comment. Major Forbes provided his comments on this submission on 29 October 2014. Major Forbes provided further material including photographs prior to the hearing on 31 March 2015.

The Papua New Guinea Independence Medal

4. The PNG Independence Medal was established to accord recognition for those members of the Defence Forces, and others, who had contributed to the development of Papua New Guinea in its lead up to Independence on 16 September 1975.

5. Royal Warrants were issued by both Australia and Papua New Guinea setting out the eligibility criteria for the award of the PNG Independence Medal.

6. A PNG Cabinet decision of 15 June 1975 set out the criteria for members of the ADF to be eligible for the PNG Independence Medal:

...personnel are required to have been members of the Australian Defence Force and or with Australian Formed Units in Papua New Guinea for the prescribed period, which for the purpose of the award is those members who are in service on 30 November 1973 and are still in service on the date of Independence (to be taken as 16 September 1975).

7. This provision was included in Clause 2(1) of the Royal Warrant of 6 October 1976. In February 1976 Headquarters Australian Defence Co-operation Group-PNG referred a list of ADF members eligible for the medal.

Major Forbes' service record

8. On 26 January 1972, Major Forbes enlisted in the Australian Regular Army Supplement – National Service ((ARAS (NS)) for an enlistment period of 18 months.

9. On 3 January 1974, Major Forbes discharged from the ARAS (NS) to enlist into the Permanent Military Forces of Australia. On 4 January 1974, Major Forbes enlisted into the ARAS (Operational) for an initial enlistment period of three years. Major Forbes served on this attachment until 28 June 1993, when he transferred to the Australian Army Reserve (ARES).

10. On 4 May 2004, Major Forbes was terminated from the ARES as he “Failed to remain contactable”.

11. With respect to service in PNG, the Defence submission provided:

Examination of the member's service records confirms that he was posted to and served in PNG from 30 March 1972 to 11 December 1974.

12. Major Forbes' full posting history shows he was posted to Papua New Guinea on 30 March 1972 until his posting to the Royal Military College on 12 December 1974.

Major Forbes' Submission

13. Major Forbes does not contend his service record or the fact he was not in PNG on 16 September 1975. He believes that his work in PNG should have resulted in his name being included in the lists of ADF personnel who were eligible for the award. In his written submission Major Forbes said that several others who were not in PNG on 16 September 1975 had received the award. He believes that the remoteness of his assignment from Port Moresby and that his work being in agricultural development may have caused him to be overlooked for the award.

14. Major Forbes is very proud of what he did in PNG and provided the Tribunal with significant evidence of the impact of his work.

15. Major Forbes has asked that if it is not possible to be awarded the PNG Independence Medal through this process that the Australian Government pursue the matter with the PNG Government. Major Forbes accepted that it was not the policy of the Australian Government to pursue the award of foreign medals.

The Directorate's Submission

16. The Directorate have examined Major Forbes' service records and concluded:

- a. he (Major Forbes) was not in PNG on 16 September 1975; and
- b. his name does not appear on any supplementary lists of ADF members to be awarded the PNG Independence Medal.

As a result of this, Defence confirmed that Major Forbes is not eligible for the award.

Conclusion

17. Major Forbes impressed the Tribunal in his submission regarding the work he had done while posted to PNG as a National Serviceman and later as a permanent member of the ADF. He holds a lot of pride in what he and others achieved. The Tribunal agrees that he made a considerable contribution that brought credit to the ADF and to himself.

18. However Major Forbes does not satisfy the eligibility criteria for the award of the PNG Independence Medal as he was not in PNG on 16 September 1975 nor on any supplementary list forwarded to the PNG Government for award of the medal.

19. The Tribunal advised Major Forbes that if he wished to pursue this issue further he may want to look into approaching the PNG Government directly to see if they may look at recognising his contribution in some way.

20. The Tribunal finds that while Major Forbes made a valuable contribution during his time in PNG he does not satisfy the criteria for the award of PNG Independence Medal.

DECISION

21. The Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Major Martin Robert Forbes (Retd) is not eligible for the award of the Papua New Guinea Independence Medal.