



Australian Government

Defence Honours and Awards Appeals Tribunal

Cecil Leckie and the Department of Defence [2014] DHAAT 6 (13 March 2014)

File Number(s) 2013/026

Re **Cecil Robert Fredrick Leckie**
APPLICANT

And **Department of Defence**
RESPONDENT

Tribunal Mr K. Woods CSC, OAM (Presiding Member)
Air Commodore M. Lax OAM, CSM

Hearing Date 27 February 2014

DECISION

On 13 March 2014 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Cecil Robert Frederick Leckie is not eligible for the award of the General Service Medal 1918-62 with Clasp 'Bomb and Mine Clearance'.

CATCHWORDS

DEFENCE AWARD –General Service Medal 1918-62 with Clasp 'Bomb and Mine Clearance'.

LEGISLATION

Defence Act 1903 – ss110T, 110V(1)
Defence Force Regulations 1952 - reg 93C and Schd 3
Defence Legislation Amendment Act (No 1) 2010 - Schedule 1 part 2
United Kingdom Command Paper 7035 of February 1947

REASONS FOR DECISION

Introduction

1. The applicant, Mr Cecil Robert Fredrick Leckie (Mr Leckie), 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 General Service Medal 1918-62 with Clasp 'Bomb and Mine Clearance' (GSM 1918-62).
2. Mr Leckie had lodged an application for the award of the GSM 1918-62 on 20 June 2013. His application was based on his service in the Interim Army from 1 July 1947 to 1 July 1948. The Directorate wrote to Mr Leckie on 5 July 2013, and informed him of its decision. In that letter the Directorate explained that Mr Leckie was not eligible for the award as his period of service did not meet the eligibility criteria for the award of the medal as prescribed in *United Kingdom Command Paper 7035 of February 1947*. It is this decision for which Mr Leckie seeks review.
3. Being dissatisfied with the decision of the Directorate, Mr Leckie lodged his application for review with the Tribunal on 9 August 2013. In his application for review, Mr Leckie explained that he was assigned for operational service with British Commonwealth Occupation Forces (BCOF) in Japan where he conducted mine clearance duties.

Tribunal Jurisdiction

4. There is no dispute that the Tribunal has jurisdiction to hear and determine Mr Leckie's application for review (see ss 110V, 110VA and 110VB(2) of the *Defence Act 1903* and reg 93C of the *Defence Force Regulations 1952*). The role of the Tribunal is to determine whether the decision of the Directorate is the correct and preferred decision having regard to the applicable law and the relevant facts.

Steps taken in the conduct of the review

5. On 4 September 2013, in accordance the Tribunal's Procedural Rules, the Chair of the Tribunal, Mr Alan Rose wrote to the Secretary of the Department of Defence advising it of Mr Leckie's application for review and invited it to make a submission and provide the Tribunal with any material on which it sought to rely. A written submission was received from the Directorate on 25 October 2013.
6. Mr Leckie was provided with a copy of the Directorate's written submission and he was invited to respond to these and submit any further material he may have in support of his claim for the award of the GSM 1918-62. Mr Leckie provided a written response on 7 November 2013. Mr Leckie was also invited to give oral evidence (by telephone) to the Tribunal on a date that was suitable to him and the Tribunal panel members.
7. The Tribunal met on 18 February 2014 to scope the review. A hearing was conducted on 27 February 2014 during which the Tribunal considered the material provided by Mr Leckie and the Directorate. It also heard oral evidence from Mr Leckie who agreed to be available, by telephone, that afternoon.

The General Service Medal 1918-62 with Clasp ‘Bomb and Mine Clearance’

8. The GSM 1918-62 was instituted in 1923 to recognise service by members of the Army and Air Force who served in areas where no other form of recognition existed and the medal was always issued with a clasp denoting the operational area in question. The eligibility criteria for the GSM 1918-62 with Clasp ‘Bomb and Mine Clearance’ after the termination of hostilities at the end of the Second World War was first promulgated in *United Kingdom Command Paper 7035* of February 1947.

9. For Army the relevant eligibility criteria for the GSM 1918-62 with Clasp ‘Bomb and Mine Clearance’ is set out in paragraph 8 (v) and 9 (iii) of the *United Kingdom Command Paper 7035*, which provide as follows:

8 (v) To qualify for the award a soldier must have been actively engaged for an aggregate of not less than 180 days on the actual excavation down to, removal of, or final disposal of, unexploded bombs or on clearance operations inside the perimeter fencing of live minefields, on the disarming of live mines, or acting as water-jet operator. Other service in a unit engaged on bomb disposal or breach mine clearance will not be counted as qualifying service.

...

9 (iii) The Zones in which bomb and mine clearance services have been carried out by Australian Navy and Army personnel, and probable terminal dates, are shown below:

Pacific

Queensland Coast	Operations by RAN Ended on 31 st May, 1950
Solomon Islands	Operations by Army and Navy Terminal date cannot be forecast
New Guinea (Trust Territory)	Operations by RAN Ended on 31 st October, 1946
New Guinea (Trust Territory) and Papua	Operations by Army Terminal date cannot be forecast

10. There are two clasp dates to the GSM 1918-62 with Clasp ‘Bomb and Mine Clearance’, one for 1945-48 and one for 1948-56.

Previous Consideration – Committee of Inquiry into Defence and Defence-Related Awards (CIDA)

11. In 1994 CIDA considered the case of Army members who served in Japan with BCOF and who were undertaking bomb and mine clearance duties. The Committee concluded:

The Committee also received submissions on behalf of the 10th Australian Bomb Disposal Platoon, which operated in Japan from April 1946 as part of the Australian component of BCOF. The Committee notes that as a result of its recommendation in Chapter 3 of this report, this service may now be eligible for the Australian Service Medal 1945-75 with clasp “Japan”.¹

12. CIDA recommendation to institute the Australian Service Medal 1945-75 with Clasp ‘JAPAN’ has since been agreed by Her Majesty and members who served with BCOF are now eligible for the award. The Tribunal noted that CIDA did not recommend extending the eligibility criteria for GSM 1918-62 with Clasp ‘Bomb and Mine Clearance’ to include those who undertook bomb and mine clearance with BCOF or those posted to Japan after World War II.

Defence records of Mr Leckie’s service

13. Defence records of Mr Leckie’s service state he enlisted in the Australian Imperial Force on 24 June 1946 for a two year enlistment period. According to Mr Leckie’s service record he was 20 years of age. On 13 March 1947 Mr Leckie was transferred to the Royal Australian Engineers Training Centre where he was trained to be a field engineer specialising in explosive demolition. On 1 July 1947 Mr Leckie was transferred to the Interim Army.

14. He was assigned for operational service with BCOF from 11 September 1947, when he embarked in HMAS *Manoora* for Japan and after completing 287 days in Japan he embarked in HMAS *Westralia* for Australia on 7 June 1948. Mr Leckie was discharged on 1 July 1948 after completing his initial engagement period. For his service, Mr Leckie was awarded the Australian Service Medal 1945-75 with Clasp ‘JAPAN’ and the Australian Defence Medal.

Summary of the Arguments of Mr Leckie

15. In his written submissions Mr Leckie claimed during his training he was taught to handle explosives and gas and to defuse various sea mines, bombs and shells. He stated that he came away from the school ‘a sapper expert in explosives’. He was sent to Japan to put this knowledge to use as there was many tons of unexploded ordnance that had to be cleared.

16. In his rebuttal to the Directorate’s claims, Mr Leckie stated that he ‘was engaged in bomb and mine disposal not for 180 days continually but overall 180 days and more’. He related that some of his peers were killed undertaking this duty and that it was very dangerous work. He wants his BCOF service to be classed as ‘qualifying service for the Bomb and Mine Clasp’.

17. The essence of Mr Leckie’s written and oral submission is that he believes he should be awarded the GSM 1918-62 with Clasp ‘Bomb and Mine Clearance’ because that’s what he did as part of BCOF in Japan. The Tribunal explained to Mr Leckie that no such clasp existed for service in Japan. Although Mr Leckie appeared to accept this

¹ *Report of the Committee of Inquiry into Defence and Defence Related Awards*, AGPS, Canberra, March 1994, p 89.

explanation he still believed that his service as part of BCOF should be recognised as ‘he wanted something to show his grandchildren what he had done’.

Summary of the Arguments of Defence

18. In its written submissions, the Directorate reiterated that which it had said in its decision, namely Mr Leckie did not serve for a minimum of 180 days conducting bomb and mine clearance in the specified zones as specified in paragraph [9] above. Accordingly, Mr Leckie is not eligible for the GSM 1918-62 with Clasp ‘Bomb and Mine Clearance’ because his service does not meet the eligibility criteria specified under *United Kingdom Command Paper 7035* of February 1947.

The Tribunal’s Findings

19. In conducting this review, the Tribunal is bound by the eligibility criteria that govern the award of the GSM 1918-62 with Clasp ‘Bomb and Mine Clearance’. These criteria are found in *United Kingdom Command Paper 7035* of February 1947. The Tribunal found that BCOF and Japan in the immediate post-war period were not specified ‘zones’ as covered by the Command Paper, so no awards could be made.

20. As Mr Leckie’s service fails to meet the eligibility criteria of undertaking a minimum of 180 days bomb and mine clearance in the specified zones, he does not qualify for the GSM 1918-62 with Clasp ‘Bomb and Mine Clearance’. This finding does not in any way diminish the contribution Mr Leckie made to his country for the period he served.

DECISION

21. The decision of the Directorate of Honours and Awards of the Department of Defence that Mr Cecil Robert Fredrick Leckie is not eligible for the award of the General Service Medal 1918-62 with Clasp ‘Bomb and Mine Clearance’ is affirmed.