



Australian Government

Defence Honours and Awards Appeals Tribunal

Dawson and the Department of Defence [2014] DHAAT 40 (27 December 2014)

File Number(s) 2014/018

Re **Fredrick George Snowden Dawson**
APPLICANT

And **Department of Defence**
RESPONDENT

Tribunal Air Commodore M. Lax OAM, CSM (Retd) (Presiding Member)
Mr R. Rowe PSM

Hearing Date 12 December 2014

DECISION

On 27 December 2014 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Frederick George Snowden Dawson is not eligible for the awards of the Naval General Service Medal 1915-1962 with Clasp 'MALAYA', the General Service Medal 1962 with Clasp 'MALAY PENINSULA' and the Pingat Jasa Malaysia.

CATCHWORDS

DEFENCE AWARD – Naval General Service Medal 1915-62 with Clasp 'MALAYA'
DEFENCE AWARD – General Service Medal 1962 with Clasp 'MALAY PENINSULA'
FOREIGN AWARD – Pingat Jasa Malaya

LEGISLATION

Defence Act 1903 – ss110T, 110V(1), 110VA, 110VB(2)
Defence Force Regulations 1952 - reg 93C and Schd 3
United Kingdom Command Paper 7907 of March 1950
United Kingdom Command Paper 3432 of October 1967
Pingat Jasa Malaysia Statutes

REASONS FOR DECISION

Introduction

1. The applicant, Mr Fredrick George Snowden Dawson (Mr Dawson), 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 awards of the Naval General Service Medal 1915-62 with Clasp 'MALAYA' (NGSM 1915-62 with Clasp 'MALAYA'); the General Service Medal 1962 with Clasp 'MALAY PENINSULA' (GSM 1962 with Clasp 'MALAY PENINSULA'); or the Pingat Jasa Malaysia (PJM).
2. Mr Dawson had previously lodged a number of applications with the Directorate. On 24 January 2007, he applied for the Pingat Jasa Malaya. The Directorate wrote to Mr Dawson on 13 February 2007 and informed him that he was not eligible. On 19 February 2007, he applied for the NGSM 1915-62 with Clasp 'MALAYA' and the GSM 1962 with Clasp 'MALAY PENINSULA'. The Directorate wrote to Mr Dawson on 30 March 2007 and informed him that he was not eligible for either award. On 8 April 2009, Mr Dawson reapplied for the NGSM 1915-62 with Clasp 'MALAYA' and again, he was advised by the Directorate that he was ineligible.
3. Being dissatisfied with the decisions of the Directorate, Mr Dawson lodged his application for review with the Tribunal on 29 January 2014. His application was based on his service in the Royal Australian Navy from 6 January 1955 to 5 January 1962.

Tribunal Jurisdiction

4. 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 a defence award or a foreign award in response to an application. Reg 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 NGSM 1915-62 and GSM 1962. The PJM is a foreign award. Therefore the Tribunal has jurisdiction to review this decision.

Steps taken in the conduct of the review

5. In accordance with its *Procedural Rules 2011*, on 12 March 2014, the Tribunal wrote to the Secretary of the Department of Defence informing him of Mr Dawson's application for review and requesting that he provide a report. On 2 May 2014, the Directorate, on behalf of the Secretary, provided the Tribunal with a report. In that report, the Directorate confirmed its position that Mr Dawson's service did not meet the eligibility criteria for the awards he sought. On 21 May 2014 the Tribunal forwarded a copy of the report of the Directorate to Mr Dawson for comment. On 31 May 2014 Mr Dawson provided a written response.
6. The Tribunal met on 14 November 2014 to scope the review. A hearing was conducted on 12 December 2014 during which the Tribunal considered the material

provided by Mr Dawson and the Directorate. It also heard oral evidence from Mr Dawson who agreed to be available by telephone that day.

Eligibility Criteria for the NGSM 1915-62 with Clasp ‘MALAYA’

7. The NGSM was instituted in 1915 by His Majesty King George V for service in minor operations. A total of 16 clasps have been awarded.

8. The NGSM 1915-62 with Clasp ‘MALAYA’ was established in March 1950 under UK Command Paper 7907. The Command Paper is ‘by Command of His Majesty’ and is for service in Malaya (Malaysia from 31 August 1957). The award is available to Australian servicemen and women who satisfy the eligibility criteria.

9. For members of the Royal Australian Navy, the applicable qualifying criteria are:

- 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.
- 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.

10. Admiralty Fleet Order (AFO) 2466/1960 states that the Queen approved the terminal date for the NGSM 1915-62 with Clasp ‘MALAYA’ as 31 July 1960.

11. Eligibility for the NGSM ended in 1962 when it was replaced by the GSM 1962, thus creating a uniform general service medal across the three services.

Eligibility Criteria for the GSM 1962 with Clasp ‘MALAY PENINSULA’

12. The GSM 1962 was instituted in October 1967 by Her Majesty for ‘general recognition of service in the Malay Peninsula/Singapore between 17 August, 1964 and 11th August, 1966 inclusive, with special regards to the hardships and dangers which have accompanied this service’. The qualifying criteria are specified in UK Command Paper 3432 and have been adopted by Australia.

Eligibility Criteria for the PJM

13. In 2004, the Government of Malaysia offered to confer a special medal of service to eligible current and former Australian servicemen and women in appreciation of their service in Malaysia with the Commonwealth Far East Strategic Reserve (FESR) from Independence to the end of Confrontation over the period 31 August 1957 to 12 August 1966. The eligibility period was set as service between 31 August 1957 and 31 December 1966. Eligibility criteria are specified in the *Statutes of Pingat Jasa Malaysia* dated 3 March 2004. As the PJM is a foreign award, the Department of Defence will receive applications, verify the service and member’s eligibility and facilitate the approval to wear the award in accordance with guidelines for foreign awards.

14. The *Statutes* provide the qualification criteria thus (spelling per the original):

This Medal can be awarded to any entity from the Peacekeeping Group (Armed Forces, Semi Armed Forces, Police and Security Civilian Staff) from the communion countries either man or woman whoever been service in Malay Peninsular or Malaysia for the period from 31 August 1957 to 12 August 1966, either on service with or attached to any of the Armed Forces or security organisation group which directly involve demonstrated endowed with service, sense of duty, chivalry and gallantry for 3 month or more; or who had served indirectly not less than 6 month or more in any security organisation during the time period; or throughout in the service despite yet to fulfil the period predetermined, killed, wounded, or disable due to performing tasks against the enemy and in upholding this country sovereignty in the stated period, can be considered to be awarded the Pingat Jasa Malaysia.

15. The Australian Government has set guidelines based on the *Statutes* and these have been agreed by the Malaysian Government. These are published on the Defence Honours and Awards website¹ and state:

- The PJM will be awarded to Australian Defence personnel, who served in the prescribed areas from 31 August 1957 to 12 August 1966, or to 9 August 1965 for service in Singapore (the point at which it separated from the Federation of Malaysia);
- Service until 31 December 1966 will also qualify for those personnel who were posted to Malaysia for service prior to 12 August 1966, but failed to qualify for the medal before that date; and
- Awards will also be made to those whose service was cut short as a result of death or injury as a result of service in these areas.
- The Department of Defence will receive applications, verify the service and eligibility and facilitate the approval to wear the award in accordance with guidelines for foreign awards.

16. One other criterion relating to the army is not relevant to Mr Dawson's service or claim.

Qualifying Periods for the PJM

17. In December 2004, the then Minister Assisting, the Hon. De-Anne Kelly, MP agreed to the qualifying criteria as set by the Malaysian Government. Consequently, there are two categories of eligibility that will be assessed by the Department of Defence for the PJM. These relate to either direct support or indirect support. The qualifying period for the medal is 90 days for those personnel posted to units in direct support of operations in the prescribed areas. Those posted to units in indirect support are required to serve for 180 days in the prescribed areas.

18. The prescribed operational areas of Malaysia and Singapore:

¹ www.defence.gov.au/medals under the Foreign Awards tab.

...is the landmass of East Malaysia (that is: the States of Sabah and Sarawak on the Island of Borneo), the Malay Peninsula and the Island of Singapore extending to 12 nautical miles seaward from the coast of these areas.

19. For members who were outside the prescribed operational areas, but who served in an indirect support of operations in Malaysia require 180 days or more service to qualify. The secondary role appropriate to naval service is:

... seagoing service with HMA Ships patrolling outside of the operational area whilst allotted to the Commonwealth Far East Strategic Reserve.

20. Qualifying periods described above may be aggregated.

Mr Dawson's Service Record

21. Defence records of Mr Dawson's service state he enlisted in the Permanent Naval Force on 6 January 1955 and discharged on 6 January 1962 after completing his term of engagement. During his service, Mr Dawson served on the aircraft carrier HMAS *Melbourne* and the destroyer HMAS *Anzac* on the following dates:

HMAS Melbourne

17 January 1959 to 3 January 1960;
23 January 1960 to 15 July 1960; and
26 July 1960 to 12 August 1960.

HMAS Anzac

12 August 1960 to 3 December 1960;
5 January 1961 to 12 April 1961; and
12 May 1961 to 21 September 1961.

Mr Dawson's other postings were shore based and in Australia.

22. For his service Mr Dawson has been awarded the following:

Australian Active Service Medal 1945-75 with Clasp 'MALAYA',
Australian Service Medal 1945-75 with Clasps 'PNG' and 'FESR', and
Australian Defence Medal.

Mr Dawson's Submissions

23. In his written submissions Mr Dawson claimed that he had received five separate communications from the Directorate stating that his assessment of qualifying service was '1 day, 4 days, 41 days and 45 days'. He reiterated that it was very confusing and that 'it would be very nice to know which it was exactly'.

24. In his response to the Directorate's report, Mr Dawson stated that 'it appears I have been under the misapprehension in thinking the 41 days qualifying service for the Malayan Service Medal (PJM) were the same as for the Naval General Service Medal with Clasp 'MALAYA''. He also conceded that he believed he was not eligible for either award.

25. At the hearing Mr Dawson stated that he could not remember ever applying for the GSM 1962 with Clasp 'MALAY PENINSULA' as he knew he was not eligible as the award was instituted for service between 1964 and 1966 and this was after he had been discharged. He asked the Tribunal 'not to bother with further consideration of that award'.

26. The essence of Mr Dawson's written and oral submission is that he did not realise there were differences in qualifying dates and number of days required to qualify for the different awards.

The Directorate's Report

27. In its report, the Directorate covered all three awards claimed by Mr Dawson. They stated that from his service record, Mr Dawson did not qualify for the NGSM 1915-62 with Clasp 'MALAYA' as he only had four days qualifying service towards the award when he needed 28 days. He was not eligible for the GSM 1962 with Clasp 'MALAY PENINSULA' as the commencement date for that award commenced after Mr Dawson had discharged from the Navy. For the PJM, he required service in the defined area of 90 days when he only had a total of 41 days. As Mr Dawson's service in Malayan waters was not terminated due death, injury or illness, he is not eligible for the PJM.

Conclusion

28. The Tribunal carefully considered all the written material before it, Mr Dawson's oral submission and the eligibility criteria for the NGSM 1915-62 with Clasp 'MALAYA'; the GSM 1962 with Clasp 'MALAY PENINSULA' and the PJM.

29. There is no dispute about Mr Dawson's naval service or that he served on HMAS *Melbourne* and HMAS *Anzac* in the periods stated. The Tribunal noted and Mr Dawson agreed that only his time on HMAS *Melbourne* is pertinent to his claims.

30. At the hearing, the Tribunal advised Mr Dawson that he was not eligible for the GSM 1962 with Clasp 'MALAY PENINSULA' as he had left the Navy before the commencement date of the award. Mr Dawson agreed and stated the Tribunal need not consider the GSM 1962 further.

31. In both his written and oral submissions, Mr Dawson stated that he was confused by the various calculations of the number of days qualifying service for the various awards provided by the Directorate. As there were four different assessments of Mr Dawson's service, the Tribunal recalculated the figures for the NGSM and the PJM. The correct figures are four days towards the NGSM with Clasp 'MALAYA' and 41 days towards the PJM. The 41 days comprises 13 days primary and 56 days secondary service.² The Presiding Member explained how the figures were calculated and the eligibility requirements for each of the awards he sought. Mr Dawson expressed appreciation to the Tribunal for having provided him a hearing and an explanation and

² 13 + 56/2 = 41 days.

finally understood why he was not eligible for either the NGSM with Clasp 'MALAYA' or the PJM.

DECISION

32. The Tribunal has decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Mr Frederick George Snowden Dawson is not eligible for the awards of the Naval General Service Medal 1915-1962 with Clasp 'MALAYA', the General Service Medal 1962 with Clasp 'MALAY PENINSULA' and the Pingat Jasa Malaysia.