



## Australian Government

### Defence Honours and Awards Appeals Tribunal

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#### **Shoebridge and the Department of Defence [2014] DHAAT 32 (22 July 2014)**

**File Number(s)** 2013/023

**Re** **Colonel Robert Shoebridge (Retd)**  
APPLICANT

**And** **Department of Defence**  
RESPONDENT

**Tribunal** Mr K. Woods CSC, OAM (Presiding Member)  
Dr J. Harte

**Hearing Date** 30 June 2014

#### **DECISION**

On 22 July 2014 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Colonel Robert Shoebridge (Retd) is not eligible for the award of the Australian Active Service Medal with Clasp 'RWANDA'.

#### **CATCHWORDS**

*DEFENCE AWARD – refusal to recommend the award of the Australian Active Service Medal with Clasp 'RWANDA'.*

#### **LEGISLATION**

*Defence Act 1903 – ss110T, 110V(1)(a)(ii), 110VB(2)*  
*Defence Force Regulations 1952 - reg 93C and Schd 3*  
*Australian Active Service Medal Regulations 1988*  
*Instrument of Declaration and Determination for the Australian Active Service Medal with Clasp 'RWANDA'*

## **REASONS FOR DECISION**

### **Introduction**

1. The applicant, Colonel Robert Shoebridge (Retd) (COL Shoebridge), 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 Australian Active Service Medal with Clasp 'RWANDA' (AASM with Clasp 'RWANDA'). COL Shoebridge had lodged an application for the award of the AASM with Clasp 'RWANDA' on 15 October 2007. His application was based on his service as a member of the Headquarters Australian Defence Force (HQADF) Strategic Reconnaissance Team (SRT) for operation TAMAR in Rwanda from 6 to 9 July 1994.

2. The Directorate telephoned COL Shoebridge on 13 September 2008 and informed him of its decision. In that telephone message the Directorate explained to COL Shoebridge that he was not eligible for the award because he was not in Rwanda during the qualifying period.

3. On 1 March 2013 COL Shoebridge wrote to the then Minister for Defence Science and Personnel, the Hon Warren Snowdon MP, and the then Parliamentary Secretary for Defence, Senator the Hon David Feeney requesting that the deployment of the SRT is recognised as one day of qualifying service for the award of the AASM with Clasp 'RWANDA'. On 18 June 2014, the then Parliamentary Secretary for Defence, Senator the Hon David Feeney, responded to COL Shoebridge advising that a Nature of Service Branch review of the Service provided by the SRT determined that this service peacetime service and 'cannot be considered as part of the Australian Government's commitment to UNAMIR'.

4. Being dissatisfied with the decision of the Directorate, COL Shoebridge lodged his application for review with the Tribunal. In his application for review, COL Shoebridge requested that the deployment of the HQADF SRT be deemed as 'one days qualifying service' for the award of the AASM with Clasp 'RWANDA'.

### **Jurisdiction**

5. There is no dispute that the Tribunal has jurisdiction to review the Directorate's decision in regard to COL Shoebridge's application for the award of the AASM with Clasp 'RWANDA' see subsection 110V(1) and 110T of the *Defence Act 1903* and regulation 93C and Schedule 3 of the *Defence Force Regulations 1952*.

### **Steps taken in the conduct of the review**

6. In accordance with the *Defence Honours and Awards Appeals Tribunal Procedural Rules 2011 (No.1)*, on 15 August 2013, the Tribunal wrote to the Secretary of the Department of Defence advising him of COL Shoebridge's application for review and invited him to provide a report.. A written report was received from the Directorate on 14 October 2013.

7. On 16 October 2013, COL Shoebridge was provided with a copy of the Directorate's report and he was invited to respond and submit any further material he may have in support of his claim for the award of the AASM with Clasp 'RWANDA'. COL Shoebridge provided a written response to the Directorate's submissions on 10 January 2014. COL Shoebridge 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.

8. The Tribunal met on 30 June 2014. During this meeting the Tribunal considered the material provided by COL Shoebridge, the Directorate, and further classified research material sourced by the Tribunal Secretariat. It also heard oral evidence from COL Shoebridge who agreed to be available, by telephone, that afternoon. At hearing, the Tribunal discussed with COL Shoebridge relevant points identified in the documentation, including the research material.

### **Background to ADF Operations in Rwanda**

9. Fighting between the mainly Hutu Government of Rwanda and the Tutsi-led Rwandese Patriotic Front first broke out in October 1990 across the border between Rwanda and its northern neighbour, Uganda. Following several unsuccessful attempts at controlling the violence, the UN established the United Nations Assistance Mission for Rwanda (UNAMIR) in October 1993. In April 1994, after the aircraft carrying the Presidents of Rwanda and neighbouring Burundi was shot down, violence erupted on a massive scale. World opinion demanded further action after news reports of genocide and an impending humanitarian disaster aired across the globe. In support of UNAMIR and under Operation TAMAR, Australia committed over 600 personnel between 25 July 1994 and 8 March 1996. This complement included medical teams, a rifle company for protection, and support personnel. On 8 March 1996 the mission formally ended.

### **Recognition of ADF Service in Rwanda**

10. ADF service with Operation TAMAR was initially recognised with the award of the Australian Service Medal (ASM) with Clasp 'RWANDA'. At that time, service was considered 'non-warlike'. To be eligible, a member of the ADF had to be force assigned and deployed in country for 30 days or more. For the purpose of the award, the deployment also had to be between 29 July 1994<sup>1</sup> and 8 March 1996.

11. Following a review in 2006 by the Nature of Service Branch, the Government agreed to reclassify Operation TAMAR as 'warlike' and the Minister approved the change with a determination issued on 26 March 1996. The Minister determined that the service rendered as a member of the ADF assigned for service on Operation TAMAR during the period 25 July 1994 and 16 January 1996 is 'war-like' service. This resulted in an upgrade of the ASM with Clasp 'RWANDA' to the AASM with Clasp 'RWANDA'. Previous declarations by the Governor-General were revoked and a revised declaration was later issued in *Commonwealth of Australia Gazette No. S 79* of 23 May 2006. The Governor-General extended the eligibility date to 8 March 1996.

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<sup>1</sup> The date was later amended to 25 July 1994

## **The Australian Active Service Medal with Clasp ‘RWANDA’**

12. The AASM was instituted by Her Majesty the Queen by Letters Patent on 13 September 1988 for the purpose of ‘according recognition to members of the Defence Force and certain other persons who render service in certain warlike operations’.<sup>2</sup> The AASM Regulations were set out in the Schedule attached to the Letters Patent. Regulation 3 states that:

*The Governor-General, on the recommendation of the Minister, may declare a warlike operation in which members of the Defence Force are, or have been on or after 14 February 1975, engaged to be a prescribed operation for the purposes of these Regulations.*

Furthermore, Regulation 4 in part states:

- (1) *The Medal may be awarded for service in or in connection with a prescribed operation.*
- (2) *The conditions for the award of the Medal are the conditions determined by the Governor-General on the recommendation of the Minister.*

13. In the case of ADF service in Rwanda, the Governor-General made a declaration which in part states:

*...[I] declare, under regulation 3 of the Regulations, warlike operations in which members of the Australian Defence Force were engaged, with the United Nations Assistance Mission for Rwanda (UNAMIR) with the force known as:*

*“Operation Tamar”- Service as a member of the Australian Defence Force commencing on 25 July 1994 and ending on 8 March 1996, as part of the United Nations Assistance Mission for Rwanda (UNAMIR) while in the area of Rwanda and the areas in Uganda, Zaire, Burundi, Tanzania that are not more than 50 km from the border with Rwanda.*

*to be a prescribed operation for the purposes of the Regulations.*<sup>3</sup>

Consequently, only members force assigned to Operation TAMAR between 25 July 1994 and 8 March 1996 are eligible for the award of the AASM with Clasp ‘RWANDA’.

## **Defence records of COL Shoebridge’s service**

14. Defence records of COL Shoebridge’s service state he served in the Australian Army from 20 January 1970 to 7 March 2001. In June 1994 COL Shoebridge was serving as Lieutenant Colonel Staff Officer Grade 1 Land Operations in HQADF Operations Division. Defence records show on 22 June 1994 COL Shoebridge was

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<sup>2</sup> *Commonwealth of Australia Gazette*, No.S.335, 2 November 1988.

<sup>3</sup> *Commonwealth of Australia Gazette*, No S.79, 23 May 2006

one of four service personnel selected to form a team to mount a SRT to Rwanda to confirm the strategic feasibility of ADF participation in the United Nations Assistance Mission in Rwanda. The team departed Australia for Rwanda on 4 July 1994.

### **Summary of the Arguments of COL Shoebridge**

15. In his written submissions COL Shoebridge stated:

*‘The information gained under FOI confirms that I was part of the SRT and that the security situation and risk did not satisfy the pre-conditions for the deployment of an ADF contingent in that an effective ceasefire was not in place. I contend that the risk to the SRT was higher than that encountered when ASC1 deployed to Rwanda as part of UNAMIR II.*

*I am not disputing that the SRT deployed before the qualifying service dates. However, I am requesting those dates be reviewed to include the SRT service in extremely hazardous and unpredictable circumstances.*

*My view is that the conditions of service experienced by the SRT in Rwanda warrant the award of the AASM with Clasp ‘RWANDA to the three members of the SRT who did not subsequently serve in Rwanda’.*

16. In his oral evidence COL Shoebridge reiterated that which he had said in his written submission, emphasising the hazardous and unpredictable circumstances he faced during his time in Rwanda.

17. The essence of COL Shoebridge’s written and oral submission is that he believes that during his time in Rwanda he was subject to the same threat and dangers as those ADF members who served in Rwanda on Operation TAMAR from 25 July 1994 to 8 March 1996. COL Shoebridge also requested that the dates of Operation TAMAR be changed to include the period, 6 to 9 July 1994; the period that COL Shoebridge was in Rwanda conducting the SRT.

### **Summary of the Arguments of the Directorate**

18. In its written submissions, the Directorate reiterated that which it had said in its decision, namely the decision not to recommend COL Shoebridge for the AASM with Clasp ‘RWANDA’ was made because he did not serve in Rwanda during the qualifying period specific for the award.

### **Tribunal Consideration**

20. By reason of subsection 110VB(6) of the *Defence Act 1903*, in conducting this review, the Tribunal is bound by the eligibility criteria that govern the award of the AASM with Clasp ‘RWANDA’. These criteria are found in the *Australian Active Service Medal Regulations* – dated 13 September 1988 and the *Instrument of Declaration and Determination for the Australian Active Service Medal with Clasp ‘RWANDA’* gazetted on 23 May 2006. Accordingly, in order for COL Shoebridge to

be eligible for the award of the AASM with Clasp 'RWANDA' it must be established that he served in Rwanda during the qualifying period for the specific award.

21. There is no dispute that COL Shoebridge was sent as part of a four man team to conduct a Strategic Reconnaissance in Rwanda to confirm the strategic feasibility of ADF participation in the United Nations Assistance Mission in Rwanda during the period 6 to 9 July 1994.

22. At the hearing, the Tribunal informed COL Shoebridge that it is not within the jurisdiction of the Tribunal to amend the qualifying dates for the AASM with Clasp 'RWANDA' and if he wanted to pursue the matter further he would need to again write to the Department of Defence. The Tribunal notes however, that the Service of the SRT has already been the subject of a Nature of Service Branch Review.

23. Accordingly, COL Shoebridge's application for the award of the AASM with Clasp 'RWANDA' must be determined on the basis of his period of service (6 to 9 July 1994) in Rwanda. As this period of service was outside the prescribed period of 25 July 1994 to 8 March 1996, there can be no finding, other than a finding that his period of service does not meet the eligibility criteria for the award of the AASM with Clasp 'RWANDA'.

### **Tribunal Finding**

24. For the above reasons, the Tribunal finds that the decision of the Directorate is the correct and preferred decision and should be affirmed. This finding does not in any way diminish the contribution COL Shoebridge made to his country for the period he did serve in Rwanda.

### **DECISION**

25. The Tribunal has decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Colonel Robert Shoebridge (Retd) is not eligible for the award of the Australian Active Service Medal with Clasp 'RWANDA'.