



Australian Government

Defence Honours and Awards Appeals Tribunal

Newlove and the Department of Defence [2023] DHAAT 18 (20 September 2023)

File Number(s) 2023/005

Re **Mr Christopher Newlove**
Applicant

And **The Department of Defence**
Respondent

Tribunal Mr Stephen Skehill (Presiding Member)
Major General Mark Kelly AO DSC (Retd)
Commodore Vicki McConachie CSC RAN (Retd)

Hearing Date 11 September 2023

Attendances Mr Christopher Newlove
Applicant

Ms Jo Callaghan, Assistant Director Veterans and Families, Directorate
of Honours and Awards, Department of Defence

Mr Wayne Parker OAM, Manager Veterans and Families, Directorate
of Honours and Awards, Department of Defence

Miss Melissa Jones, Special Counsel (Defence People Group),
Department of Defence

DECISION

On 20 September 2023, the Tribunal decided to affirm the decision that Mr Christopher Newlove not be recommended for the Australian Defence Medal.

CATCHWORDS

DEFENCE AWARD – Australian Defence Medal – Citizen Military Forces – National Service – eligibility criteria – initial enlistment conditions not met – limited exceptions to mandatory period of efficient service – no discretion.

LEGISLATION

Defence Act 1903 – Part VIIIC – Sections 110T, 110V(1), 110VB(2), 110VB(6)

Defence Regulation 2016, Regulation 36

Australian Defence Medal Regulations Letters Patent, Commonwealth of Australia Gazette S48, dated 30 March 2006

Australian Defence Medal Regulations Amendments of Letters Patent Commonwealth of Australian Gazette G00629, dated 5 August 2020

Australian Defence Medal Regulations Determination 2021, dated 16 March 2021

The National Service Act 1951-1964

National Service Act 1965, An Act to amend the National Service Act 1951-1964, Assented to 7 June 1965

National Service Act 1968, An Act to amend the National Service Act 1951-1966, Assented to 24 June 1968

National Service Act 1971, An Act to amend the National Service Act 1951-1968 and to provide for matters connected therewith, Assented to 8 October 1971

National Service Termination Act 1973 No. 88, 1973

REASONS FOR DECISION

Introduction

1. The Applicant, Mr Christopher William Newlove, seeks review of the decision of the Manager, Veterans and Families, Mr Wayne Parker, in the Directorate of Honours and Awards of the Department of Defence (Defence), to refuse to recommend him for the Australian Defence Medal (ADM).¹

Decision under review

2. On 4 October 2022, Mr Newlove applied to the Directorate for an assessment of his eligibility for the ADM. On 16 February 2023, Mr Parker advised Mr Newlove that he was ineligible for the ADM, for the following reasons:

During the assessment of your service, it was determined that as you completed your National Service obligation by serving past 5 December 1972, you are eligible for the Anniversary of National Service 1951-1972 Medal (ANSM).

The ANSM was introduced in 2001 to recognise individuals who completed their national service obligation under either of the two National Service schemes that operated in Australia between 1951 and 1972.

This award will be approved and despatched to you forthwith.

The decision to not recommend you for the ADM was made for the following reasons:

- There is no evidence to show that you completed your initial enlistment period of two² years, or served for periods that totalled not less than four years.*
- Additionally, there is no evidence to show that the reason for your discharge was due to any of the exceptions at paragraph 4(1)(d) of the Regulations.³*

3. On 27 March 2023, Mr Newlove made application to the Tribunal seeking review of the above decision.

Tribunal jurisdiction

4. Pursuant to s110VB(2) of the *Defence Act 1903* 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 in response to an application. Regulation 36 of the *Defence Regulation 2016* lists the defence awards that may be the subject of a reviewable decision. Included in the defence awards listed in Regulation 36 is the ADM. Therefore, the Tribunal has jurisdiction to review decisions in relation to this award.

¹ Application for review, Mr Christopher William Newlove, dated 27 March 2023.

² Defence later acknowledged that the stated two-year period was incorrect and that Mr Newlove had enlisted for six years.

³ Letter, Mr Parker to Mr Newlove, dated 16 February 2023.

Mr Newlove's service

5. Mr Newlove's service records indicate that he enlisted in the Citizen Military Forces (CMF) for a period of six years on 17 May 1971 and was discharged at the rank of Gunner on 9 February 1973 for the reason of '*at own request*'. Mr Newlove served for a period of one year, eight months and twenty-four days.

6. Correspondence from the National Service Registration Office advised that he undertook to serve in the CMF for a period of six years as an alternative to National Service. Further correspondence from the Office to Mr Newlove advised that the commitment was reduced from six to five years.⁴

7. As advised in the Defence report, such service was an option for National Service registrants to fulfil an obligation under the *National Service Act 1951*⁵ (NSA). Service rendered under this option was known as 'CMF in lieu'.⁶

8. Defence further advised that Mr Newlove has been issued the Anniversary of National Service 1951-1972 Medal for his service.⁷

The Australian Defence Medal

9. The ADM was created by Letters Patent and accompanying Regulations on 8 September 2005 *for the purpose of according recognition to Australian Defence Force personnel who have served for a minimum of six years since the end of World War II*.

10. New Regulations were made on 20 March 2006, which resulted in the minimum period of service being changed from six years to the lesser of the period of initial enlistment of 4 years, unless certain exceptions were applicable. The Regulations were further amended in 2020 to introduce additional exceptions for the award of the ADM to members who had not met the minimum period of qualifying service.

11. In summary, in accordance with the amended *Australian Defence Medal Regulations 2006*, in order to be eligible for the ADM, a member or former member of the Australian Defence Force now must have rendered the minimum annual qualifying service by completing an initial enlistment or appointment period, or a period of or totalling not less than four years' service, unless specified exceptions apply.

12. The relevant eligibility criteria for awarding the ADM is contained in paragraph 4(1) of the *Australian Defence Medal Regulations 2006*⁸ as amended in 2020,⁹ which states:

4 Award of the Medal

(1) *The Medal may be awarded to a member, or former member, of the Australian*

⁴ Letters, Commonwealth Department of Labour and National Service to Mr Newlove, submitted with application for review

⁵ *National Services Act 1951* and amending legislation

⁶ Defence report, dated 10 May 2023

⁷ Ibid

⁸ *Australian Defence Medal Regulations 2006*, *Commonwealth of Australia Gazette*, S48, dated 30 March 2006

⁹ *Australian Defence Medal Regulations*, *Commonwealth of Australia Gazette*, G00629, dated 5 August 2020

Defence Force who after 3 September 1945 has given qualifying service that is efficient service:

- a) by completing an initial enlistment or appointment period; or*
- b) for a period of not less than 4 years service; or*
- c) for periods that total not less than 4 years; or*
- d) for a period or periods that total less than 4 years, being service that the member was unable to continue for one or more of the following reasons:*
 - (i) the death of the member during service;*
 - (ii) the discharge of the member as medically unfit due to a compensable impairment;*
 - (iii) the discharge or termination of the member due to a prevailing discriminatory Defence policy, as determined by the Chief of the Defence Force;*
 - (iv) the member ceased service in the Permanent Force or Reserves of the Defence Force and mistreatment by a member of the Defence Force or an employee in the Department of Defence was a significant factor. [...]*

13. The *Australian Defence Medal Determination 2021* dated 16 March 2021 (the Determination) provides specific details of prevailing discriminatory policy for the purpose of subparagraph 4(1)(d)(iii) of the Regulations.

For subparagraph 4(1)(d)(iii) of the Regulations, policies relating to the following topics that were in effect before the specified dates are determined to be prevailing discriminatory Defence policies:

- a) Transgender - before 1 June 2010.*
- b) Homosexuality - before 24 November 1992.*
- c) Pregnancy (female) - before 7 January 1975.*
- d) Marriage (female) - before 1 January 1970.*
- e) Retention after marriage (female) - before 21 March 1984.¹⁰*

14. Relevant to Mr Newlove's period of service, the Determination also confirms in Schedule 1 '*Minimum Periods of Qualifying Service*', the minimum annual periods of service to be completed by a member for a year of qualifying service. It states:

The following table specifies the minimum annual periods of service to be completed by a member for a year of qualifying service. The period of service may consist of one, or a combination, of the following.

- a. Days remunerated at Defence rates of salary or sessional fees.*

¹⁰ *Australian Defence Medal Regulations Determination 2021* dated 16 March 2021

- b. *Days on which the member is eligible for a Reserve service payment under Chapter 4 Part 9 Division 4 of Defence Determination 2016/19, Conditions of service, as in force from time to time.*
- c. *Days of approved voluntary unpaid Reserve service.*

Service Category	Minimum Qualifying Period	Effective Dates	Comments
Australian Army			
Army Reserve	26 days, including such periods of continuous training and home training as directed by the proper military authority	Up to and including 30 June 1993	
	14 days	From 1 July 1993 up to and including 19 April 2000	
Supplementary Reserve Units	14 days continuous service	Up to and including 30 June 1993	From 1 July 1993 as for Army Reserve
Special Conditions Units	26 days continuous service	Up to and including 30 June 1993	From 1 July 1993 as for Army Reserve
Specialist Consultants	7 days	From 1 July 1993 up to and including 19 April 2000	Service to be approved by a formation commander
All members	20 days	From 20 April 2000	

15. Relevant to Mr Newlove's service, the requirement was that he serve 26 days in the Army Reserve per enlistment year.¹¹

16. As per information supplied with the Defence report, Mr Newlove served an approximate attendance total of 45 days in his first year and an approximate total of 17 days in his second uncompleted year before he discharged.¹²

Mr Newlove's application to the Tribunal

17. In his application to the Tribunal, Mr Newlove challenged the reason for the initial decision that he had not finished his enlistment period stating that he had fulfilled his obligation under the NSA. Mr Newlove stated that the abolishment of National Service rendered his obligation complete, possibly because he believed this action constituted a completion of his initial enlistment or appointment period and thus satisfying Subregulation 4(1) (a).

The grounds for this rejection were cited as I did not complete my enlistment.

As a National Servicemen I fulfilled my obligations under the National Service Act as was no longer required to serve, as national Service was abolished before my enlistment came due.

If this reason why my application was rejected then all National Servicemen who did not fulfill their enlistment of 18 months, as National Service was abolished, should also be rejected.

¹¹ Australian Defence Medal Regulations Determination 2021 dated 16 March 2021

¹² Defence report, dated 10 May 2023

18. Mr Newlove further quoted what he believed to be the minimum days per year for qualifying service and supplied an extract from the Australian Defence Medal determination.¹³

Also, as will be seen on the attachments¹⁴ Schedule 1 Minimum periods for qualifying service Australian Army Reserve Units qualifying period is 14 days continuous service.

As you will see from attachment labeled "discharge" it can be seen that I served 1 year 269 days of which included a 14 day camp of continuous service.¹⁵

The Defence report

19. In its report, Defence reaffirmed its original position that Mr Newlove was not eligible for the ADM because he did not complete the minimum qualifying service, in accordance with the Determination, by completing an initial enlistment or appointment period, or a period of or totalling not less than four years' service. Nor did Mr Newlove discharge under provisions contained in subparagraphs 4(1)(d) of the Regulations.

20. Defence acknowledged Mr Newlove's comments in his submission referring to the completion of his National Service obligation and the qualifying period required for the ADM, and provided the following:

a. There is no dispute that Mr Newlove completed his National Service obligation. As detailed at paragraph 10, his CMF service was rendered in lieu of being called-up for National Service. This was on the proviso that he served efficiently in the Citizen Forces for a period of six years, as detailed in the DLNS correspondence date-stamped 07 June 1971, as provided by Mr Newlove. The requisite period was later reduced to five years. In essence, in order to not be called-up for National Service, Mr Newlove had to remain enlisted and render efficient service for a minimum period of five years for the duration of the National Service Scheme.

b. With the cessation of National Service on 05 December 1972, Mr Newlove's obligation under the National Service Act 1951 had been met, hence he is eligible for the ANSM. The cessation of National Service did not; however, automatically result in Mr Newlove fulfilling his period of CMF enlistment.

c. In relation to personnel with an 18 month National Service enlistment period; for the purpose of the ADM, unless meeting one of the provisions of paragraph 4(1)(d) of the Regulations, those who voluntarily chose to discharge on or after 05 December 1972 prior to completing their enlistment period are not eligible for the medal.

d. Defence agrees that Mr Newlove remained enlisted in the CMF for a total of one year and 269 days (equating to one year, eight months and 24 days). The

¹³ Although the front page of the determination was not supplied with Mr Newlove's application, it appears to be from the Australian Defence Medal Determination 2021, dated 16 March 2021

¹⁴ Extract from *Australian Defence Medal Determination* as supplied with Mr Newlove's application

¹⁵ Application for review, Mr Christopher William Newlove, dated 27 March 2023

period of his enlistment was rendered as part-time service and therefore Mr Newlove was remunerated only for periods of attendance.¹⁶

Mr Newlove's comments on the Defence report

21. In his comments on the Defence report, Mr Newlove drew attention to what he stated was an extract from the NSA, regarding the minimum required qualifying service period following the cancellation of national service that, he believes, would therefore qualify him for the ADM. Mr Newlove stated:

[...]

I would like to draw your attention to the below extract from the National Service Act 1951 which in my view supports my claim.

I also full the minimum service requirement of 3 months service as the act does not state that that service served is either full time or part time.

One thing to be noted is that at last after 2 attempts the department of Defence has finally supplied me with what I can only consider a complete set of my service records.

Which also supports my claim that they are inadequate in that they do not record time spent on continuous service and gunnery courses that I had to attended to attain the rank of gunner and which was depremental (sic) to a claim I made for hearing loss..'

[...]

According to the below extract I have Qualifying service

If a national serviceman did not complete their full qualifying service because national service was cancelled before they could do so, they may still be considered to have completed qualifying service under the Australian legislation

Under the National Service Act 1951, a person who had been called up for national service and had completed some but not all of their required service could still be deemed to have completed their qualifying service. Specifically, section 7(1)(b) of the Act provides that a person who was required to render national service for a period that was cancelled or reduced could still be deemed to have completed their qualifying service if they had served for a period of at least 3 months.

In other words, if a national serviceman had served for at least 3 months before national service was cancelled, they may be considered to have completed their qualifying service under the National Service Act 1951.¹⁷

¹⁶ Defence report, dated 10 May 2023

¹⁷ Mr Newlove's comments on the Defence report, dated 21 May 2023

Tribunal Analysis

22. Under the NSA, males aged 20, or approaching their 20th birthday, were required to register for National Service within two two-week registration windows each year. Mr Newlove, being born on 16 March 1952, was required to register in January 1972.

23. Twice a year ballots were held to draw the birth dates of registrants born within a six-month period. On 24 March 1972 the ballot applicable to Mr Newlove was held. While the birthdates on 9, 12, 13, 17, 26, 27, 30 and 31 March were drawn, his birth date of 16 March was not drawn and thus he was not called up for National Service.

24. Registrants who were called up were obligated to serve in the Regular Army Supplement for two years (later reduced to 18 months), subject to meeting Army medical and other suitability requirements. However section 31 of the NSA empowered the Minister to issue deferments of the obligation to undertake national service on specified conditions, and to subsequently cancel or vary such deferments.

25. In November 1964 the then Minister for Labour and National Service announced that the Government intended using the national service scheme as a means of encouraging men to enlist in the CMF.

26. In furtherance of that proposal, on 8 December 1965 the Minister announced that indefinite deferments were to be granted to three categories of persons who had enlisted in the CMF. Mr Newlove, who had enlisted on 17 May 1971, fell within the second of these categories, which was as follows:

*Second, there will be those who have served efficiently as members of the Citizen Military Forces for less than twelve months at the commencement of registration for their age group. They will be required to undertake to serve efficiently in the Citizen Forces for a total period of six years, irrespective of the result of the ballot. They will be granted indefinite deferment of call-up provided they serve efficiently for the total period; those who fail to serve efficiently for the full period will become liable for call-up for national service, regardless of whether or not they were balloted in.*¹⁸

27. On 5 December 1972 at the general election the then Coalition Government was defeated by the Australian Labor Party and the new Government led by the Hon Gough Whitlam assumed office. It withdrew the last Australian troops from Vietnam. As a consequence of Australia's withdrawal from the war, which had commenced under the previous Government, the need for conscription to increase Army numbers was eliminated and national servicemen began to be discharged from the Regular Army Supplement. As then-current legislation did not provide a specific and relevant provision for such discharges, this was done using the artifice of a provision allowing discharge in cases of 'exceptional hardship'.

28. Consistently with the position adopted in the case of conscripts serving under the NSA, those who had exercised the option of enlisting in the CMF in lieu of potentially

¹⁸ Statement by the Hon. William McMahon MP, Minister for Labour and National Service, 8 December 1965, NAA: A463, 1964/5143 Part 1.

serving in the Regular Army Supplement under the NSA were offered the choice of remaining in CMF, transferring to the Regular Army, or taking early discharge.

29. Mr Newlove exercised the latter option, and his file includes a Certificate of Discharge which showed his discharge date as 9 February 1973, and lists the reason for discharge as 'DA 40 At Own Request'. This was a reference to section 40 of the *Defence Act 1903* which provided, at that date, as follows:

(1) Except in time of war or in time of defence emergency, a voluntarily enlisted soldier of the Active Civilian Military Forces may claim his discharge before the expiration of the period of service for which he is engaged, if he has given not less than three months' notice in writing to his commanding officer of his intention to claim his discharge.

(2) Whenever a voluntarily enlisted soldier of the Active Civilian Military Forces claims his discharge as provided by the last preceding sub-section, he shall, with all convenient speed, be discharged, but until discharged he remains a soldier of those Forces.

30. In his application for review and at the Tribunal hearing Mr Newlove claimed that he was a national serviceman who had fulfilled his obligation to serve under the NSA and that he was therefore eligible to be awarded the ADM.

31. The Tribunal was not convinced that this description was correct. He was certainly obliged to register for National Service under the NSA and he did so. But, because his birth date was not drawn, he was not balloted in and he was not called-up. His service was as a result of voluntary enlistment as an alternative to compulsory service under the NSA. The NSA did not make provision for enlistment in the CMF, which was simply a condition of gaining an indefinite deferment under section 31 of the NSA. He would only have been obligated to serve under the NSA if he failed to provide efficient service as a member of the CMF, which he did not fail to do.

32. The Government subsequently formalised the administrative arrangements under which National Service had been concluded by passage of the *National Service Termination Act 1973*. Section 4(1) of that Act provided as follows:

Notwithstanding anything contained in the National Service Act, no person is liable, or shall be deemed to have been liable from and including 5th December, 1972, to register under the National Service Act, to render service under that Act (whether in the Regular Army Supplement, the Regular Army Reserve, the Regular Army Emergency Reserve or the Active Citizen Military Forces) or otherwise to comply with any requirement of that Act or of regulations under that Act.

33. The Second Reading Speech for the Bill for that Act provided the following explanation of the purpose of the Act:

The abolition of conscription is, however, too important a matter for it to continue to rest solely on administrative decision and administrative action. Conscription should not, moreover, be capable of reintroduction without the express need for legislation to be brought before, and passed by, this Parliament. The Government has decided that legislative effect should be given to the decision to abolish conscription which I as Minister took

administratively. It is also not only confirming, but strengthening and reinforcing, these decisions to ensure that they cannot be reversed administratively. The Bill is simple but far reaching in its effect. It legally terminates as from 5 December 1972 the liability of men to register for national service, whether it be full time or part time service on the Reserve - or in the CMF - on completion of the full time service. The date on which the new Government came into office was 5 December and I, as the Acting Minister for Labour and National Service, approved administrative action to end all call-up for national service.

34. In light of that explanation, the Tribunal considered that, while section 4(1) referred to rendering service under the NSA in the CMF, this was most likely intended to refer to situations in which a person had failed to provide effective service as a member of the CMF, in which they had enlisted in lieu of National Service in the Regular Army Supplement under the conditions attached to indefinite deferments issued under the NSA. The Tribunal was thus not satisfied that section 4(1), which was only passed after Mr Newlove had been discharged, meant that his service in the CMF had been under the NSA.

35. The Tribunal noted that Defence had awarded Mr Newlove the Anniversary of National Service Medal (ANSM). As this might be thought to infer that he had in fact performed National Service, the Tribunal examined the basis on which it had been awarded to him.

36. The Letters Patent and accompany Regulations provide that the ANSM was instituted for the purpose of commemorating the service of persons who gave service under the NSA, as that Act was in force from time to time between 1951 and 1972, or who gave other service in discharge of the obligation to service under that Act [emphasis added]. The Regulations empowered the Governor-General to make a determination specifying the other service for which the ANSM might be awarded.

37. On 25 October 2002 the Governor-General made such a determination. It specified five categories of service. The category relevant to Mr Newlove was in paragraph (v) which stated:

The Medal may be awarded to a person who was registered under the National Service Act 1951 and elected to meet his or her obligations under that Act by completing part-time service in the Citizen Forces and completed such service [emphasis added].

38. While Mr Newlove did not complete his enlistment period of six (later five) years, paragraph (vi) relevantly provided:

Service as described in subparagraph ... (v) of this Instrument may be deemed by the Chief of the Defence Force ... to have been established if it was terminated due to grounds of exceptional hardship, under the National Service Act 1951.

39. Defence confirmed at the hearing that it had found no document recording that Mr Newlove had been discharged on the ground of exceptional hardship under the NSA, and indeed his Certificate of Discharge stated that he was discharged under section 40 of the Defence Act. The Tribunal was thus satisfied that the fact that Mr Newlove had been awarded the ANSM was not indicative that he had rendered National Service. [It seems that Defence may have decided to award Mr Newlove the ANSM on the mistaken understanding

that, as he was serving at 5 December 1972, he fell within paragraph (iv) of the Determination, but that was limited to 'a person who was registered and called up for National Service', and Mr Newlove had not been called up.]

40. But even if Mr Newlove had rendered National Service that would not necessarily mean that he would meet the eligibility criteria for the ADM.

41. As noted previously, the criteria for an ADM require that a person has served either one or more periods totalling four years or their 'initial enlistment period'. Mr Newlove served for less than two years and thus his eligibility depended solely on identifying his 'initial enlistment period'.

42. Mr Newlove originally enlisted for six years. This was clearly an 'initial enlistment period'. The Government subsequently and arbitrarily reduced this period to five years, so arguably this also might be accepted as an 'initial enlistment period' under the ADM Regulations. But Mr Newlove did not serve either of these periods. While Mr Newlove's discharge was an option offered to him by the Government, it was in lieu of service for the full period of enlistment.

43. At the hearing Mr Newlove referred to the following statement made by the Defence Reserves Association on its website:

... National servicemen will be eligible for the ADM, as the completion of their National Service obligation will be considered as completion of an initial enlistment period of service.

44. The Association is of course not an authoritative source of the law, which can only be found in the ADM Regulations. But, even if the above statement was correct, the Tribunal was not satisfied that it applied to Mr Newlove. For the reasons set out above, it was not satisfied that he was a 'national serviceman' (even though he was at risk of becoming one if he failed to provide effective service in the CMF) or that he had fulfilled a 'National Service obligation' (as opposed to an obligation he voluntarily assumed in lieu of the potential that he might come under such an obligation under the NSA if he was balloted in and called up).

45. At the hearing, Mr Newlove expressed concern that those who served in the CMF were a 'forgotten army' who had not been recognised for their service which could, at time, be dangerous. While the Tribunal members and the Defence representatives expressed to Mr Newlove their appreciation of and gratitude for his service, the Tribunal also noted that it was legislatively bound to apply the eligibility criteria in the Regulations and could not recommend that his service be recognised by the ADM (or any other award) if the applicable eligibility criteria were not met.

46. Mr Newlove also expressed concern that, at the time he and others were offered the option of taking an early discharge, no advice was offered as to the potential disadvantages of taking that option. However, as the ADM (and the ANSM) did not exist at that time and were created only years later, there was no advice that could reasonably be expected to have been given at that time about the potential consequences in relation to medallic recognition.

47. Finally, the Tribunal noted that in his written submissions to the Tribunal, Mr Newlove included the following, which he referred to as 'an extract':

If a national serviceman did not complete their full qualifying service because national service was cancelled before they could do so, they may still be considered to have completed qualifying service under the Australian legislation.

Under the National Service Act 1951, a person who had been called up for national service and had completed some but not all of their required service could still be deemed to have completed their qualifying service. Specifically, section 7(1)(b) of the Act provides that a person who was required to render national service for a period that was cancelled or reduced could still be deemed to have completed their qualifying service if they had served for a period of at least 3 months.

In other words, if a national serviceman had served for at least 3 months before national service was cancelled, they may be considered to have completed their qualifying service under the National Service Act 1951.

48. The Tribunal was unable to find the statutory provision referred to in this quotation and thus asked its Secretariat to seek from Mr Newlove the source from which he was quoting. He advised that he had obtained this material from the artificial intelligence application known as ChatGPT. In these circumstances, the Tribunal concluded that the quoted material was of no persuasive value.

49. For the reasons set out above, the Tribunal concluded that Mr Newlove did not meet the eligibility criteria for the ADM.

Tribunal Decision

50. In light of the above, the Tribunal decided to affirm the decision that Mr Christopher Newlove not be recommended for the Australian Defence Medal.