



Defence Force Remuneration Tribunal

DECISION

Defence Act 1903

s.58H—Functions and powers of Tribunal

ROYAL AUSTRALIAN NAVY: ENGINEER OFFICER LEVEL 2 (SUPPLEMENTARY)

(Matter 20 of 2021)

MS I. ASBURY, PRESIDENT

MR A. MORRIS, MEMBER

CANBERRA, 22 DECEMBER 2021

MAJGEN G. FOGARTY AO RETD, MEMBER

[1] This decision arises from a listing application for a determination to be made under Section 58H of the *Defence Act 1903* (the Act). The listing application¹ seeks to include ‘Warrant Holder’ as a classification descriptor within the Graded Officer Pay Structure (GOPS), giving Engineering Warrant Holders access to the same pay grade placement as their counterparts.

[2] We considered this matter in a hearing on 2 December 2021 where Mr J. Phillips SC appeared for the ADF and Mr H. Miller for the Commonwealth.

Background

[3] This statement is published in conjunction with our prior determination in Matter 17 of 2017.² In that matter, the Navy Engineer Officer employment classification descriptors were renamed; replacing the term ‘Level 2’ with ‘Principal Engineer’ and ‘Subordinate Materiel Governance Authority’ as applicable. These changes occurred through the transition, at that time, from the ‘Naval Technical Regulatory Framework’ to the ‘Defence Seaworthiness Technical Regulations’.

Submissions

ADF

[4] The ADF submits that during the transition process between the regulatory frameworks, and in the development of its submission for Matter 17 of 2017, *“two delegations were overlooked and not included in that submission and hence cannot be placed in Pay Grade 8 with their counterparts”*. The ADF states those delegations are for the position of ‘Warrant Holder’ – a role that *“is delegated to provide expert advice to a Principal Engineer in an Authorised Materiel Seaworthiness Delivery Organisation – in this case – the Department of Defence – to assist the Principal Engineer in their responsibility to give quality technical advice to Executive Authorities”*.³

[5] The ADF advises Navy realised the oversight when giving two Engineering Officers the ‘Engineer Warrant Holder 2’ delegations. Those individuals have been performing the roles and responsibilities of a ‘Warrant Holder 2’ since 24 February 2020 and 14 December 2020 respectively. As a result, the ADF now seeks retrospective remuneration for those officers.

Commonwealth

[6] The Commonwealth submission supports the proposal and agrees *“a relativity exists between the Engineer Warrant Holder 2 descriptor and the roles of Principal Engineer and Subordinate Materiel Governance Authority”*.⁴

[7] The Commonwealth *“accepts the omission of the Engineer Warrant Holder Grade 2 from Pay Grade 8 was an unintended oversight”* and *“does not oppose the backdating of this remuneration adjustment for the two individuals involved”*.⁵

Consideration

[8] We considered the evidence that *“the majority of Warrant Holders spread through the Naval Engineering Branch are Australian Public Service employees who are remunerated under enterprise agreements based upon holding a Warrant Holder delegation”*. We accept this *“may have contributed to the Warrant Holder delegations being overlooked”*.⁶

[9] We considered the application for retrospectivity with reference to the general position of this Tribunal, that increases should apply prospectively. However, in this instance, we agree with the Commonwealth *“firstly, that the omission was unintentional, and second, that the two individuals affected have been performing the roles, requirements and responsibilities for a period of up to 18 months”*.⁷

Conclusion

[10] We agree to place the Engineer Warrant Holder 2 classification descriptor alongside the ‘Principal Engineer’ and ‘Subordinate Materiel Governance Authority’ in pay grade 8 of the GOPS and, at the same time, provide retrospective remuneration for the two officers affected by this oversight.

[11] Determination 24 of 2021 gives effect to this decision.

MS I. ASBURY, PRESIDENT
MR A. MORRIS, MEMBER
MAJGEN G. FOGARTY AO RETD, MEMBER

Appearances:

Mr J. Phillips SC for the ADF assisted by Mr P. Blady

Mr H. Miller for the Commonwealth assisted by Mr N Doukas

¹ DMR/OUT/2021/31 Listing Application – Royal Australian Navy Engineer Officer, Level 2 (supplementary) dated 11 October 2021.

² <https://www.dfrt.gov.au/matters/navy-engineers-level-2>

³ ADF1 page 1 paragraph 3.

⁴ Commonwealth submission RAN Engineering Officer Level 2 – Supplementary Navy Engineer Warrant Holder 2 dated December 2021 (CWLTH1).

⁵ CWLTH1 page 4 paragraphs 19 and 20.

⁶ ADF1 page 3 paragraph 11.

⁷ Transcript 2 December 2021 page 4 lines 38 to 41.