

Cu 389/1981

DGR/EA

SOCIAL SECURITY ACTS 1975 TO 1981

CLAIM FOR UNEMPLOYMENT BENEFIT

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Decision C.U. 4/82

1. My decision is that the claimant is disqualified for receiving unemployment benefit for the inclusive period from 12 May 1981 to 25 May 1981 because he lost employment owing to a stoppage of work which was due to a dispute at his place of employment (Social Security Act 1975, section 19(1)).

2. The claimant was one of 2,000 hourly-paid production workers employed by the Ford Motor Co in its Transmission (TP) plant at Halewood. On 8 May 1981, as a result of a dispute in the Paint, Trim and Assembly (TPA) plant and the Metal Stamping and Body (MSB) plant over the suspension of four night-shift workers under the company's disciplinary code, the entire 4,000 night-shift body and assembly workers withdrew their labour, and they were followed on 11 May 1981 by the entire 4,000 day-shift workers. One of the consequences of this withdrawal of labour was that certain services provided by a boiler-house, which was shared by all three plants, were no longer available to the TP plant, so that this particular plant was without pneumatic power and steam, and could no longer function. In consequence the claimant along with some 2,000 other workers in the TP plant was, on 12 May 1981, laid off. The dispute was eventually settled on 20 May 1981, and work was resumed on 26 May 1981.

3. The claimant claimed unemployment benefit on 13 May 1981, but in the light of the evidence the insurance officer disqualified him for the inclusive period from 12 May 1981 to 25 May 1981 on the ground that he had lost his employment by reason of a stoppage of work which was due to a trade dispute at his place of employment. The claimant appealed against that decision to the local tribunal, who by a majority, the chairman dissenting, upheld his appeal. Thereupon the insurance officer lodged an appeal to the Commissioner, and the claimant asked for an oral hearing, a request to which I acceded. At that hearing the insurance officer was represented by Mr F J Lewis of the Chief Insurance Officer's Office and the claimant

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by Mr A Bano of Counsel, instructed by Messrs Brian Thompson and Partners, Solicitors. I am grateful to them both for their submissions.

4. Section 19 of the Social Security Act 1975 as amended, insofar as it is relevant to this appeal, reads as follows

"(1) A person who has lost employment as an employed earner by reason of a stoppage of work which was due to a trade dispute at his place of employment shall be disqualified for receiving unemployment benefit so long as the stoppage continues, except in a case where, during the stoppage, he has become bona fide employed elsewhere in the occupation which he usually follows or has become regularly engaged in some other occupation; but this subsection does not apply in the case of a person who proves -

(a) that he is not participating in or directly interested in the trade dispute which caused the stoppage of work;

(b) ...

(2) In this Act

(a) "place of employment" in relation to any person, means the factory, workshop, farm or other premises or place at which he was employed, so however that, where separate branches of work which are commonly carried on as separate businesses in separate premises or at separate places are in any case carried on in separate departments on the same premises or at the same place, each of those departments shall for the purposes of this paragraph be deemed to be a separate factory or workshop or farm or separate premises or a separate place, as the case may be;

(b) "trade dispute" means any dispute between the employers and employees, or between employees and employees, which is connected with the employment or non-employment or the terms of employment or the conditions of employment of any persons, whether employees in the employment of the employer with whom the dispute arises, or not."

5. The question at issue in this case is whether or not the claimant is to be disqualified for claiming benefit for the period set out in paragraph 1 by virtue of section 19. Mr Bano contended that, although undoubtedly the claimant had lost employment by reason of a stoppage of work which was due to a trade dispute, such trade dispute did not arise at his place of employment. He was therefore not caught by section 19(1). Mr Bano did not contend that the claimant could take advantage of the exception contained in the section,

nor did he contend that the claimant was not directly interested in the trade dispute which caused the stoppage of work. Accordingly, the question at issue is a narrow one, namely whether the trade dispute took place at the claimant's place of employment.

6. What constitutes "place of employment" was discussed in Decision R(U) 1/70 (paragraph 16) by the then Chief Commissioner, and it was conveniently considered in the context of the Ford Motor Company's factory complex at Dagenham. The then Chief Commissioner observed as follows

"The definition of a "place of employment" is a very wide one. The inclusion in it of a farm, which may well be intersected by a road or a railway, supports this view. The presence of, and necessity for, the exception in the second part does not suggest that the first part should be narrowly construed. It has always been widely construed by the Commissioner. The relevant definition of "factory" in the Oxford English Dictionary is "a building, or buildings, with plant for the manufacture of goods; a manufactory; works;". The evidence establishes that some of the components used in the assembly plant were brought in from outside and some of those manufactured at Dagenham were used in Ford factories elsewhere. The main purpose, however, of the operations on this Estate was to build motor vehicles. The operations known as Dagenham Operations, carried on in the three plants with which we are concerned in these appeals, had as their purpose the manufacture of particular types of motor vehicle. In the circumstances I am satisfied that the insurance officer's contention is correct. In my judgment the Estate was for national insurance purposes a factory for the production of motor vehicles and not merely a number of factories for the manufacture of component parts of them. Even if I had taken a different view on this, I should have accepted that the three plants called Dagenham Operations constituted one such factory and not merely three or more. I therefore hold that the Estate as a whole comes within the definition of place of employment in the first part of [section 19(2)(a)]. The remedy in the case of such large premises as these lies in the second part, where it applies".

7. At the hearing I was shown a plan of the Ford Motor Company's site at Halewood. I was told that it covered some 360 acres. Most, though not all of it, is developed, the undeveloped areas being at the extreme Eastern and Western ends. The PTA and MSB plants are under one roof, and the TP plant is separated by a stout 8 ft high fence, which surrounds the entirety of the plant apart from entrances and a rail-gate permitting rail traffic between the PTA and MSB plants on the one hand and the TP plant on the other. However, only 100 metres separate the extremities of the two buildings and 400 metres the main body of the buildings.

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8. I agree with the view of the then Chief Commissioner in Decision R(U) 1/70 that "place of employment" has a wide meaning. It is essentially geographical or topographical in concept, embracing not merely the specific building where the claimant works, but any adjacent, or more or less adjacent, building or surrounding land where activities similar or complementary to those of the claimant are being undertaken at the direction of a common owner. In other words where in a particular area activities are being carried out on the instructions of one owner directed to a common end, such area constitutes as regards all the persons working there their place of employment.
9. Looking at the Ford Motor Company's site at Halewood as a whole I have no doubt, as the then Chief Commissioner had no doubt with respect to the Dagenham complex, that the three plants at Halewood are for the purposes of section 19(2)(a) one factory and one place of employment. The plants are under one common ownership and are concerned with the manufacture of motor cars. The evidence given at the hearing before me established that the employees at Halewood manufactured the Escort range of cars, and each of the three plants was directed to the production of such cars. Admittedly, in the case of the TP plant, which manufactures gear boxes and steering parts, only some 25-33% of its output goes into Escort production, the remainder being supplied almost exclusively to other areas of the Ford organisation, but I do not think that this materially affects the issue. The three plants are not concerned with the manufacture of components as such, but, in the final analysis, with the production of motor vehicles.
10. However, Mr Bano contended that it was not enough to approach the question on the basis that what constitutes a place of employment is determinable by merely physical or topographical features. One had also to look at the organisational structure of the relevant plants. He produced evidence to show that the TP plant had an administrative organisation quite separate and distinct from that of the PTA and MSB plants, and in addition it was financially independent. Eventual managerial responsibility for the PTA and MSB plants on the one hand and the TP plant on the other was to be found at a high level in the Ford organisation, the personnel concerned being located outside the Halewood complex. Mr Bano contended that this organisational and financial dichotomy necessarily meant that the TP plant was a separate factory, that the trade dispute, which had occurred in the other two plants, did not extend beyond them and that these plants were no part of the claimant's place of employment.
11. As a matter of fact I do not consider that the TP plant can be regarded as wholly independent, in that it shares certain facilities and services with the other two plants on the site. The personnel of all three plants are recruited at one office, the mail is distributed from one office, there is a certain amount of interchanging of staff, albeit this is not encouraged, and the security, fire and traffic services are enjoyed in common. Of particular importance in the context of this appeal is the further fact that each plant shares the services of a common boiler-house. It must also be remembered that

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all three plants belong to the Ford Motor Co, and there has necessarily to be a point at which some person or persons assume overall responsibility for all three plants, albeit such person or persons are not resident at Halewood.

12. However, the extent to which the TP plant is truly independent of the others is material, in my judgment, not for the purposes of determining what constitutes the basic definition of "place of employment", but whether or not the exception set out in section 19(2)(a) can be invoked. For a different organisational and financial structure can suggest that the plant concerned, although forming part of one single place of employment, may nevertheless be a separate department, which, if it satisfies the exception of section 19(2)(a), can be deemed to be a separate factory, and hence a separate place of work. However, for it to qualify under section 19(2)(a) the separate department must be devoted to work commonly carried on as a separate business. Accordingly, even if, for the purposes of section 19(2)(a), I regard the TP plant as functionally a separate department by virtue of its independent organisational and financial character, the claimant is not assisted unless he can show that the work of the TP plant is commonly carried on as a separate business from the general business of car manufacture.

13. Mr Bano endeavoured to adduce evidence to show that this was in fact the case. He called Mr McNally, the union convener of the TP plant and Mr G Brown, the AUEW Divisional Organiser, who suggested that there were independent manufacturers of transmission equipment. There was a reference to Borg Warner, a concern which apparently operated independently of any national car manufacturer. However, this particular concern only produced automatic transmissions. Certainly, names did not readily spring to mind when the witnesses were invited to identify independent producers of transmission equipment. They accepted that every car manufacturer throughout the world had its own organisation for the production of such equipment. I am satisfied on the evidence, and find as a fact, that the work undertaken by the TP plant is not commonly carried on as a separate business from the general business of car manufacture, and as a result the claimant cannot take advantage of the exception provided for in section 19(2)(a).

14. Accordingly, on the evidence I am satisfied that the trade dispute which gave rise to the stoppage took place at the claimant's place of employment, and that the insurance officer rightly disqualified the claimant for the period set out in paragraph 1. The majority of the local tribunal were wrong to overturn the insurance officer's decision, and I allow this appeal.

(Signed) D G Rice  
Commissioner

Date: 20 April 1982

Commissioner's file: C.U. 389/1981  
C I O File: I.O. 3308/U/81  
Region: North Western

