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SOCIAL SECURITY CONTRIBUTIONS AND BENEFITS ACT 1992  
SOCIAL SECURITY ADMINISTRATION ACT 1992

APPEAL FROM DECISION OF SOCIAL SECURITY APPEAL TRIBUNAL  
ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

*Claimant's Name:*

*Claim for:*

*Appeal Tribunal:*

*Tribunal Case Ref:*

*Decision dated:*

[ORAL HEARING]

1. My decision is that the decision of the social security appeal tribunal confirming the disallowance of this claim for disablement benefit on the ground that the claimant had not been shown to have suffered an industrial accident was not erroneous in point of law, and this appeal by him must therefore be dismissed.

2. I held an oral hearing of this appeal which had been directed on the application of the claimant. Mrs V Chiswell, a welfare benefits consultant with Hill & Abbott, solicitors, appeared for the claimant and Mr S Sriskandarajah of the DSS solicitor's office appeared for the adjudication officer.

3. The claimant is a man now aged 44 who made three separate claims for industrial accident declarations saying that he suffered such accidents on each of 4 December, 7 December and 9 December 1992. It is common ground that shortly after those dates he was found to be suffering from a psychological disorder variously characterised as post-traumatic stress disorder, depressive illness and anxiety state, and had developed irritable bowel syndrome, also consistent with suffering from stress. He last worked on 10 December 1992 when he was aged just over 40, and had for the previous two years been the manager of the UK (and I think also the European) property department of a large multinational manufacturing company controlled from America.

4. According to the evidence before the tribunal he began experiencing increasing difficulties at work from about mid 1992 onwards when his work, in which he had previously enjoyed a good deal of autonomy and authority, was increasingly subject to scrutiny and criticism by superiors sent over from America. He was humiliated by having his department reorganised, his budget and authority cut and by having disciplinary proceedings brought against him involving demotion. Matters came to a head with various unpleasant meetings on the three dates in December mentioned above

and finally with a "performance appraisal" on 10 December 1992, after which he was distressed and unable to cope with the situation any longer and had to stay at home.

5. The claim for an industrial accident declaration is a necessary part of his claim for industrial injuries benefit which, although of course derived from earlier provisions to replace the old workmen's compensation schemes for such things as factory or shipbuilding accidents, now applies under s. 94 Social Security Contributions and Benefits Act 1992 where any employed earner suffers personal injury caused by accident arising out of and in the course of his employed earner's employment. There is no dispute that although the claimant occupied a highly paid managerial post with the multinational company it did count as employed earner's employment for this purpose.

6. As the tribunal entirely correctly recorded before a claimant can qualify for any benefit under this head it is necessary to identify an event or incident at or related to his work which can be characterised as an "accident"; and it is well established by caselaw that this condition is not satisfied if what the person suffers from is a condition which builds up over a period of time, even though the build-up is caused wholly by things that happen or pressures to which he is subjected in the course of his work, and even though the effect at the end of the day is just as disabling in terms of his capacity to go on working as if he had had the misfortune to catch his hand in a machine. The tribunal therefore correctly identified the only real issue they had to determine as being the factual one of whether it had been shown to their satisfaction that at any relevant time before he was forced to stop work through incapacity, there had been anything identifiable as an "accident"; (There are of course separate provisions extending the benefit to people suffering from various specified types of work-related diseases, but the stress-related illness suffered by the claimant does not fall within any of these.)

7. The tribunal heard evidence from the claimant himself and submissions from him which they described as lucid and comprehensive, and had before them detailed medical evidence in the form of reports from a consultant gastroenterologist, a consultant clinical psychologist and a consultant psychiatrist. They accepted his evidence that he was suffering from a stress-related illness as a result of his treatment at work, but confirmed the rejection of his claim summarising their reasons in the very last sentence of the record of their decision on page 68 as being that "the causation was not an accident at work on any of the dates asserted by the appellant, or at all". They commented that while the evidence put before them had dealt in depth with his medical condition and its likely origins, it included no specific or detailed accounts of the meetings with his superiors on the four crucial dates in December 1992, and said that they rejected the proposition that his condition was caused by "an incident" on any of the relevant dates.

8. In my judgment, there was no real evidence before the tribunal that should have led them to the conclusion that the claimant had met with an "accident" at work in the relevant sense on any of the four dates he identified, and I am unable to see that they erred in law or in principle in arriving at the conclusion they did. On his behalf it is submitted that the medical evidence should have been read as leading to the conclusion

10. For the reasons I have given, I am satisfied that the tribunal directed their minds to the right question and reached a conclusion which was not only open to them on the evidence but in my view clearly indicated by it. Although their reasons might perhaps

11. Again this appears to me to justify the conclusion arrived at by the tribunal that the claimant's condition, whose existence they did not question, had been caused by a process of build-up to incapacity over a period of time, as distinct from an accident in the relevant sense for the legislation.

12. That this is the relevant distinction is not in my judgment open to doubt. I was referred to a number of other Commissioners' decisions in the course of the written and oral submissions but none of them provides any ground for questioning that basic and functional distinction or does more than illustrate its application to different individuals sets of facts. I did not therefore find them of great assistance on the rather different and special facts before me.

13. Similarly the consultant psychiatrist's report at pages 40-53 which also presents a detailed and objective picture refers at page 45 to the claimant giving a history of a "systemic and deliberate campaign of bullying" that started in June 1992 until "finally the pressure became unbearable" when he walked out after listening to a performance appraisal which he viewed as "a collection of lies" on 10 December 1992. It is important to note that at pages 50-51 the consultant psychiatrist gives his opinion that the "criteria for traumatic severity" to warrant a diagnosis of post-traumatic stress disorder were not met, but that

14. "a period of prolonged distress in which a series of stressful events took place which threatened his psychological integrity and his environment" "exposure to a pattern of behaviour at work led to the psychological state..." from which the claimant was still suffering, identified by the psychiatrist as "a major depressive episode".

15. The gastroenterologist's report at pages 12-16 while confirming that the claimant was suffering from a genuine and distressing condition of irritable bowel syndrome which must have been stress-related, refers at page 13 to a four-to-five month history prior to January 1993 which is quite inconsistent with the condition being caused by a single accident at the beginning of December 1992. The consultant psychologist's report at pages 15-39 gives a very clear and sympathetic picture of the genuine difficulties suffered by the claimant but again appears to me to be more consistent with a build up to an incapacitating condition over a period of time than an accident. See for example the references on page 22 to his loss of a stone in weight over the period from October 1992 to March 1993 with stress related sleep disturbance and other difficulties, and on page 27 to the onset of symptoms of stress disorder which the psychologist considers to have been occasioned by

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have been better expressed at one or two points. and their comment at page 68 about his breakdown having been an "unavoidable climax to the appellant's ongoing approach to life generally" was I think superfluous, they left no real room for doubt as to the grounds on which they had rejected his appeal after considering all the evidence. As I have said I do not think they fell into any error of law in doing so.

14. For those reasons, I dismiss the claimant's appeal.

*(Signed)*

P L Howell  
Commissioner  
8 October 1997