

SEE CSB/372/1987 (held together)

ATH/SH/11

Commissioner's File: CSB/1/1988

Region: Wales & South Western

SUPPLEMENTARY BENEFITS ACT 1976

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Helen Webster

Social Security Appeal Tribunal: Bristol

Case No: 151/3

[ORAL HEARING]

1. I disallow this appeal by the claimant. The decision of the social security appeal tribunal dated 2 July 1987 was not erroneous in law.
2. The claimant is an unemployed single parent. She has one dependent son who was at the date of the claim aged 5. She lives in privately rented accommodation. Since 7 December 1985 she had been in receipt of supplementary benefit and was also in receipt of child benefit and one-parent benefit and her savings were less than £100. According to Form AT2, in box 5, the claimant wrote on 24 July 1986 to the local office of the DHSS requesting a visiting officer to call to see her concerning various items that she needed; and in that letter she stated that she had been offered a six month course at the Skill Centre run or organised by the Manpower Services Commission (now the Training Commission) and she requested help with child care costs. She was visited by a representative on 13 August 1986 and she asked the representative if it would be possible to disregard the child care fees from the training allowance that she would receive from the Manpower Services Commission. By a decision issued on the same day, 13 August 1986, the adjudication officer decided that the claimant's childminding costs in connection with her Manpower Services Commission course could not be met either by an additional requirement or by disregarding from the training allowance the amount the claimant would spend on childminding. The claimant appealed and in a written submission dated February 1987 the Avon and Bristol Community Law Centre acting on behalf of the claimant submitted that, by treating the Manpower Services Commission allowance as an income resource in full under regulation 11 of the Supplementary Benefit (Resources) Regulations 1981, there was an indirect discrimination against single parents which was in contravention of the EEC Equal Treatment Directive. They set out in that written submission (at page 17 of the case papers) figures showing how, if the claimant had to bear childminding costs out of her training allowance, she would be left with less than the weekly supplementary benefit rate. On 10 February 1987 the case came before a social security appeal tribunal who adjourned the case at the adjudication officer's request to enable the adjudication officer to consider the written submission made on behalf of the claimant. On 2 July 1987 the hearing of the appeal before the appeal tribunal took place and in a unanimous decision the appeal tribunal decided that the claimant was "not entitled to childminding costs either by way of an additional requirement

or by deduction from her Manpower Services Commission training allowance when that is taken into account when assessing her resources". The claimant now appeals with leave of the tribunal chairman.

3. On 20 January 1988 I directed an oral hearing and directed that the oral hearing take place at the same time as the oral hearing already directed in CSB/372/1987. That oral hearing took place on 11 July 1988. The claimant was present and was represented by Mr Drabble of Counsel instructed by Miss Penny Wood of the Child Poverty Action Group. Mr Pannick of Counsel appeared for the adjudication officer and also for the Secretary of State, instructed by Miss K Lee of the Solicitor's Office, Department of Health and Social Security. I am grateful to them both for their assistance.

4. At the beginning of the hearing of this appeal before me, Mr Drabble pointed out that there was a difference between the present case and CSB/372/1987, in that in the present case the claimant did not attend the course in question so that if her appeal was successful and if the decision of the appeal tribunal was set aside by me, there would in fact be no remedy to which she was entitled.

5. I have in my decision in the associated case, CSB/372/1987 set out the reasons why I came to the conclusion that neither of the EEC Directives applied in the circumstances of that case and why the decisions of the appeal tribunal and of the adjudication officer were not in breach of either directive. No separate issue is raised in the present case. Accordingly, as Mr Drabble has not sought to distinguish R(SB) 39/83, I conclude that the decision of the appeal tribunal in the present case was correct in law.

6. For those reasons, I disallow this appeal.

(Signed) A.T. Hoolahan
Commissioner

Date: 14 September 1988