

CPAG

★ 9A/92

JM/1/LM

Commissioner's File: CSB/053/92

**SUPPLEMENTARY BENEFITS ACT 1976
SOCIAL SECURITY ADMINISTRATION ACT 1992**

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. This is a claimant's appeal, brought by leave of the chairman of the social security appeal tribunal, against a decision of that tribunal dated 24 October 1991 which confirmed a decision issued by the adjudication officer on 20 May 1991. My decision is that the aforesaid decision of the appeal tribunal is not erroneous in point of law.

2. This appeal is little short of preposterous. The claimant had not even reached the age of 50 when supplementary benefit passed from the statute book. He has at all material times been in the best of health. During the years in which he was in receipt of supplementary benefit, it never occurred to him to suggest that he should be relieved of the obligation to be available for employment as a condition of entitlement to that benefit. He certainly has no cause to rebuke himself on that score. He never had any prospect of being so relieved. He did not fall within any of the paragraphs between (a) and (t) of regulation 6 of the Supplementary Benefit (Conditions of Entitlement) Regulations 1981; and, of course, there was no arguable analogy in sight.

3. Notwithstanding the foregoing, in April 1991 (three years after the abolition of supplementary benefit) the claimant - egged on no doubt by his representative - applied for a review of his erstwhile entitlement to supplementary benefit. He sought an ex post facto waiver of the requirement to be available for work. (The relevant application did not condescend to suggest any date to which such backdating should be carried.) The printed words on the application referred to regulation 72 of the Social Security (Adjudication) Regulations 1986. There was not, of course, the slightest prospect of the claimant's being able to bring himself within that (now revoked) regulation.

4. In the last few months I have seen a substantial number of cases like this one - mainly backed by representatives in the midlands and north of England. Why they encourage claimants to make such extravagantly delayed and such hopeless applications,

I cannot say. Those applications could only succeed upon the basis of a wholly impermissible rewriting of the aforesaid regulation 6 (not to mention regulation 72). Such representatives might care to reflect upon the prejudice which those applications work upon deserving claimants with arguable cases relating to benefit here and now. Throughout the 12 years that I have been a Commissioner, there has been a backlog (sometimes very substantial) of appeals awaiting the attention of the Commissioner. Appeals like the one presently before me simply waste time which could be more advantageously devoted to cases of substance. But perhaps that is of no concern to the representatives to whom I refer.

5. I have already given more time to this appeal than it merits. So, in my view, did the appeal tribunal - which obviously went into this stale matter with enormous care. The whole social security adjudication system is - and always has been - designed to achieve (at least so far as appeal tribunal level) the prompt despatch of cases relating to current, or relatively recent, entitlement to benefit. Obviously there always have been - and always will be - cases which genuinely demand examination of long past events. But it is now more than six years since the promulgation of the important decisions of a Tribunal of Commissioners in R(SB) 5/87 and R(SB) 6/87. It is my view that where, in cases founded upon regulation 6 of the Conditions of Entitlement Regulations, the application for a review has been delayed for a period extending into years, it is only in clear cases that the appeal tribunal should grant review and revision; otherwise public time and public money will be expended upon the investigation of matters which are passing out of human recollection and in respect of which documents may, quite understandably, have been weeded from the files of the Department of Social Security.

6. The claimant's appeal is disallowed.

(Signed) J Mitchell
Commissioner

Date: 12 November 1992