

DGR/JW

SUPPLEMENTARY BENEFITS ACT 1976

APPEAL FROM DECISION OF SUPPLEMENTARY BENEFIT APPEAL TRIBUNAL
ON A QUESTION OF LAW

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Decision C SB 2/81 reported

1. My decision is that the decision of the Wolverhampton Supplementary Benefits Appeal Tribunal given on 15 January 1981 is erroneous in point of law, and accordingly I set it aside.
2. On 27 March 1981 I gave leave to the Supplementary Benefit Officer to appeal against the decision of the Wolverhampton Supplementary Benefits Appeal Tribunal of 15 January 1981. I now have to consider the appeal itself.
3. The facts of the case are simple and straightforward. The claimant, who had been discharged from prison on 21 November 1980, claimed in writing on form A9 dated 28 November 1980 a single payment to enable him to purchase, inter alia, shaving equipment and two towels. The claim was rejected by the Benefit Officer, and in consequence the claimant appealed to the Supplementary Benefits Appeal Tribunal. The Tribunal found in favour of the claimant, and expressed their decision in the following terms:

"Mr Golden has had to commence his life, after discharge from prison without any basic articles and a single payment is, therefore, considered essential to prevent risk to health under regulation 30".

The Supplementary Benefit Officer now appeals on a point of law against that decision to the Commissioner.

4. The crucial regulation in this case is regulation 30 of the Supplementary Benefit (Single Payments) Regulations 1980, which provides as follows:

"Where a claimant is entitled to a pension or allowance and he -

(a) claims a single payment for an exceptional need under any of the regulations in Parts II-VII, but fails to satisfy the conditions for that payment;

or

(b) claims to have an exceptional need for which no provision for a single payment is made in any regulation in those Parts,

a single payment to meet that exceptional need should be made in his case if, in the opinion of a benefit officer, such a payment is the only means by which serious damage or serious risk to the health or safety of any member of the assessment unit may be prevented".

5. Manifestly, regulation 30 does not apply unless a claimant, in addition to being entitled to a pension or allowance, can satisfy either paragraph (a) or (b). In the present case, the benefit officer complains that the Tribunal erred in law in failing to make any specific finding which justified the conclusion that paragraph (a) or (b) had, in fact, been satisfied in the present case. According to him, the Tribunal were by reason of such omission guilty of an error of law. I think this is being pedantic.

6. It is not in dispute that basic shaving articles and towels are not among the items of essential household equipment for which a single payment may be made under regulation 9. Furthermore, there is no other regulation known to me which enables a single payment to be made for those particular articles. It follows that paragraph (b) of regulation 30 is satisfied, and the Tribunal were at liberty to apply regulation 30, if they thought that the claimant satisfied the other relevant provisions. Doubtless it would have been helpful and prudent on the part of the Tribunal to have spelt out why they were persuaded that paragraph (a) or (b) had been complied with, but in the present case, the matter not being a contentious issue, I do not think that there was any absolute obligation imposed on them. I have no doubt that they duly considered the terms of those paragraphs and concluded that there had been compliance with paragraph (b), notwithstanding that they made no specific reference in their decision to any such conclusion.

7. However, the further criticism made by the benefit officer of the Tribunal's decision has, in my judgment, substance in it. For he contends that there was no evidence to support the Tribunal's conclusion that, if a payment were not made for basic shaving articles and towels, there would be serious damage or serious risk to the claimant's health or safety. It will be noted that the Tribunal said in its decision that a single payment was considered essential "to prevent risk to health under regulation 30". It is important to note that there is no reference to the important word "serious". The regulation provides that a single payment shall only be made if it is the only means by which serious

damage or serious risk to the health or safety of the claimant may be prevented. I quite see that it can easily be said that the absence of shaving equipment and towels may have an adverse effect on a person's health. However, the important point is whether or not it has a serious effect on his health, or a serious risk thereto. I do not see any evidence to suggest that the failure to make an award, so as to enable the claimant to purchase the items in question, would have any serious consequences for his medical welfare. I do not see how the Tribunal could, on any footing, have reached the conclusion that they did, in the light of the evidence that was before them.

8. For completeness I should observe that the benefit officer also contends that there was no evidence to suggest that the making of a single payment was the only means by which serious damage or serious risk to the health or safety of the claimant might be prevented. However, in view of my finding in paragraph 7, it is unnecessary for me to consider this further submission.

9. For the reasons shown in paragraph 7, I am satisfied that the tribunal's decision was erroneous in law, and it follows that I must set it aside.

10. I allow this appeal, and direct that the case be determined afresh by a differently constituted tribunal.

(Signed) D G Rice
Commissioner

Date: 13 July 1981

Commissioner's File : C SB/70/1981
CBO 88/81