

Invalidity pension — no real life occupation
that claimant could be expected to do.

IEJ/SH/4/MD

Commissioner's File: CS/388/1984

C A O File: AO 3458/V/84

Region: Midlands

SOCIAL SECURITY ACTS 1975 TO 1984
CLAIM FOR INVALIDITY BENEFIT
DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: Peter John Richardson

Appeal Tribunal: Coventry

Case No: 60/21/12

[ORAL HEARING]

1. (1) This is a claimant's appeal against the unanimous decision dated 10 July 1984 of a social security appeal tribunal ("the tribunal") brought by leave of the tribunal's chairman. By their decision the tribunal upheld the decision of an adjudication officer issued on 1 June 1984 to the combined effect that invalidity pension was not payable from 31 May 1984 to 21 June 1984 (both dates included) because the claimant had not proved that he was incapable of work by reason of some specific disease or bodily or mental disablement, and that by reason of his not being entitled to invalidity pension for that period invalidity allowance was not payable in respect of it either.
 - (2) My decision follows an oral hearing of the appeal on 17 October 1985 at which the claimant attended and gave evidence but was represented by Ms C Orbach of the claimant's local Welfare Rights Advice Centre and the adjudication officer was represented by Mr. M. N. Qureshi of the Solicitor's Office, DHSS. I am indebted to both Ms. Orbach and Mr. Qureshi for helpful submissions, and in particular to Ms. Orbach for the assiduity of her efforts to obtain "real life" evidence as to the specific job requirements pertaining to certain occupations, which, pursuant to a direction I had given at an earlier stage in the proceedings, were put forward by the adjudication officer as meriting consideration as to whether involving work of which the claimant could be regarded as having been capable and which he could reasonably be expected to do at the material times.
 - (3) After anxious consideration I have ultimately concluded that the appeal should be allowed. My decision is that invalidity pension is payable from 31 May 1984 to 21 June 1984 (both dates included) because the claimant has proved that he was incapable of work by reason of some specific disease or bodily or mental disablement over that period, and that invalidity allowance also is payable for that period. My decision as to invalidity pension is given pursuant to sections 15(1) and 17(1)(a)(ii) of the Social Security Act 1975 ("the Act") and my decision as to invalidity allowance pursuant to section 16(1) of the Act.
2. The claimant, a single man in his late 30's who resides with his mother, is heavily built

but not tall. He last worked in 1979, but there are still over 25 years of a normal working life span prior to retiring age still ahead of him. His education did not proceed beyond school leaving age - indeed, as he himself put it, he left school "unofficially" at 13½. He has no academic qualifications and no vocational qualifications of any formal kind. Prior to 1980 he had last been working as a builders labourer, but his work experience had included also being a painter and working as an assembly line worker both in the domestic heating appliance industry and in the engineering industry. He has never worked as a clerical worker, although a significant part of his daily routine since he ceased working has been occupied in reading, he writes a cogent and articulate letter in relation to his social security benefit position, and he can find his way about the case file in the present case without any apparent difficulty. He is highly articulate, but the impression I gained from his evidence before me and his oral submissions additional to those of his representative was that he would not be fitted, health conditions apart, for work involving either advanced reasoning ability or the acquisition of any advanced non-manual skills.

3. It is not in dispute that at the material times the claimant was incapable of work as a painter or labourer, by reason of a back condition, or that, so far as could be foreseen, he never again would be; or that on account of that condition and the pain it occasioned to him he had justifiably given up working in those fields in 1979. The claimant's back condition has been described as degenerative in character, and I am satisfied that this has exerted a considerable influence upon the claimant's own attitudes to his life. However, It is also not in dispute that he was in the earlier times after he had to abandon heavy manual work substantially overweight by reference to his height and age, and that this exacerbated the symptoms arising from his back problems. More recently, however, he has substantially reduced his weight under a medical regime including both a special diet (taking account of the additional factor that he suffers from diabetes mellitus) and also of taking recommended daily walking exercise, 2 miles or so a day (the latter element of the regime being directed additionally to the avoidance of aggravation of his back symptoms if he remains static for too long). In evidence before me the claimant indicated, and I accept, that he had on his own initiative made a number of approaches to prospective employers in a variety of fields as to regaining employment, but without success. Whilst I accept that evidence, I am constrained to evaluate it also in the light of the strong impression I formed at the hearing that there is force in an observation to be found amongst the medical evidence in the case that the claimant "lacks motivation" as to re-entering the field of employment. He has, in my judgment, developed a strongly defeatist attitude, in the sense that his immediate reaction to any suggested form of employment is that he could not do it, or that he would if it was available give it a try but would not expect to be able to do it for more than a day or so before having to give it up for a period of recoupment. And since it is clearly in the claimant's own long term interests that he should re-enter the employment field if he can, I have felt considerable concern in the case about the sapping of an already impaired initiative as to making more of his life that I fear may ensue from success on the present appeal. However, that is not a factor which I can allow to divert me from the true criteria by reference to which I must perform my judicial duty. What I have to decide is whether or not the claimant was in the material period incapable by reason of some physical disease or bodily of mental disablement of performing work for which an employer would pay and which the claimant could reasonably be expected to do. And, for reasons I will seek to indicate, I have come to the conclusion that in the material period there was no such work.

4. On 25 May 1984 the claimant's own doctor issued him with an "open" 28 day certificate indicating as the diagnosis of the disorder causing absence from work "degeneration of cervical and lumbar spine". That would have expired on 21 June 1984 and is the first of several items of medical evidence relied upon by the claimant in support of his case. Chronologically that medical evidence followed upon reports by DHSS examining medical officers on 23 March 1984 and 23 May 1984, both of which dates fell within periods as to which the claimant's own doctor had issued him with a certificate advising him to refrain

from work. Those 2 reports were furnished by different examining medical officers, each of whom expressed the opinion that the claimant was capable of work "within limits". There then followed the adjudication officer's decision in respect of the material period adverse to the claimant, and his appeal to the tribunal. His own doctor provided him in that context with an open letter dated 9 July 1984 in the material terms:-

"The above who is under my care I do not consider fit enough to do light manual work. I do not however think he is able (capable of) clerical work."

5. Though much later in time, it is convenient to interpose at this point that upon his appeal before me the claimant additionally relied upon a consultant's report dated and based upon an examination of the claimant at his request upon 12 September 1985. I accept everything that is indicated in that report, but it is of very limited assistance to me because it is essentially in the nature of a provisional report based upon physical examination in the light of the case history as explained to the consultant by the claimant, and contemplates provision of a further opinion in the light of later access to case notes and x-rays, reference to which the author indicates would obviously be important. The opinion expressed in it by way of conclusion is merely "it would seem likely therefore that [the claimant] has a longstanding problem with his cervical and lumbar spine which most likely would take the form of a degree of osteoarthritis and disc degeneration" - and I do not think that there is any controversy as to that. That consultant has, however, taken a careful case history from the claimant and made specific findings of his own which are of assistance to me. The claimant, providing this information in September 1985, indicated that his back symptoms first came on some 18 years previously, spontaneous in nature and not associated with any direct injury to the spine. Some 6 years previously to the date of examination, the claimant indicated, he had found it difficult to continue with his normal heavy form of employment by reason of discomfort particularly in his low back, and acquired disabled status. In the past he had sustained injuries to his right forearm and elbow which had left him with what the consultant describes as a partially subluxated head of radius and a residual restriction of movement of that joint, in addition he complained of some discomfort in both knees and heels which the consultant indicated might suggest a minor underlying inflammatory arthropathy. Over the years, the claimant indicated, he felt that his back had become increasingly more painful, with a constant backache and episodes of more severe discomfort which could last for quite considerable periods of time; his back had remained somewhat troublesome even since discontinuing work. Over the years he had received courses of physiotherapy and hydrotherapy at the request of consultant orthopaedic surgeons, and he is currently awaiting further investigation at a hospital. The report continues:-

"He also is a diabetic whose diabetes seems moderately controlled with oral drugs, but he is complaining of rather bizarre paraesthesiae affecting the arms and legs, and I wonder if he has in fact had an electromyographic examination to exclude a peripheral diabetic neuropathy. He tells me that he feels incapable of any other work than that of a labourer as he has received no skilled training in the past. For the present he finds it difficult to walk for more than short periods of time, and feels quite unable to lift or carry heavy weights. Clinical examination shows him to be somewhat overweight, being 14 stones and only 5ft 6½ins high. Examination of the cervical spine shows a decrease in flexion, but a greater limitation of extension, right and left lateral flexion and rotation. Examination of the lumbar spine reveals tenderness at the dorso lumbar junction as well as diffusely over the lumbosacral level. He is able to flex hands to knees with a greater decrease in extension, as well as some limitation of his right and left lateral flexion and rotation. Reflexes and neurology in both the upper and lower limbs seem entirely normal. Examination of the right elbow shows a limitation of flexion, extension and supination, as a consequence of the longstanding deformity of his right elbow joint."

6. The claimant in his evidence before me described, at Ms Orbach's invitation, a typical day in his present regime. It started with waking in circumstances such that he had to move very cautiously and bit by bit in order to get his body moving without incurring sudden acute pain. He rolled out of bed and with difficulty dressed. He had breakfast, and then spent about half-an-hour reading the paper. After that he started on a morning walk, being under instructions from his medical adviser to walk 2 miles a day. It was about a mile to the centre of town and it took him about an hour to get there, pausing for rests on the way when, as he did, he experienced a burning tingling sensation in his legs. He would resume the walk after 5 or 10 minutes rest. He would be home in time to eat lunch, he had a bed rest in part of the afternoon, and would spend the rest of the time until he retired to bed alternating, broadly, between periods of half and not exceeding three quarters of an hour sitting and reading and then standing up and walking about, often up and back down the street in which he lived, for exercise. Having retired, he would wake up about 3 times in the night to walk around to ease his pain. He could not have a deep sleep, and if he moved suddenly in his sleep he would wake up suddenly with sharp pain, otherwise it was an aching pain. This had been the position for around 3 years past. The claimant indicated that he was under regular prescription of pain killers, one to be taken 4-hourly, but that these did not relieve his pain. He indicated also that whilst his weight had been 17½ stone in 1980 it had come down to around 13 stone, apparently as a result of the prescribed diet and his taking walking exercise. Mr. Qureshi put to him that his weight was on the increase again as the consultant's report had referred to 14 stone, but the claimant would not accept this - his reference to 13 stone was approximate and had not been by admeasurement. I would here interpose that a loose reference to 13 stones might be to 13 stone 13, and a loose reference to 14 stones might be to 14.0 or more, and I do not regard any point established against the claimant in respect of weight measurement.

7. A strenuous attack upon the evidence of the examining medical officers upon which Mr. Qureshi's case relied was mounted both by Ms Orbach on the claimant's behalf, and, in amplification of that, by the claimant himself. Various inaccuracies were pointed to in reports spanning the period from 1980 to 1984 in which a number of such reports had been rendered, but the main theme of the claimant's contentions was that because his condition had been characterised as degenerative it must be destructive of all credibility of the examining officers' reports if and so far as - as could indeed be identified - any later examination found him less afflicted than an earlier. I have not been much impressed by the attack so developed, since there is obvious room for significant difference of opinion between different medical men seeing a claimant at different times, and I do not propose to go into the minutiae of those criticisms. I should however indicate that I am rejecting as playing any significant part in the grounds for my decision a report given dated 7 August 1981 which expressed the opinion that the claimant was not incapable of work at the occupation of painter/labourer, since a further report by a different doctor on 24 September 1981 expressed the opinion that the claimant was incapable of work at that occupation but was capable of work within certain limits and includes an intimation "since our last report (6.8.81) further information has become available, namely that the claimant is a registered disabled person due to arthritis of the spine" - and that appears to me to be pregnant with the inference that the attention of the examining officer who had given the predecessor report had not been alerted to the claimant having such a condition. Moreover, whilst not wholly irrelevant, the evidence one way or the other as to what was the claimant's condition in years prior to 1984 is not in my judgment of any close assistance to me in determining the issues I have to determine in reference to the claimant's medical condition in the material period in 1984. I have already indicated the views of the claimant's own doctor and the conclusions expressed by the 2 examining medical officers whose reports in 1984 are on the case file. I must now turn to the latter in greater detail.

8. (1) The examining medical officer who gave the report of 23 March 1984 found abnormality in 3 of the listed systems on Form RM9, namely abdominal,

locomotor and neuropsychiatric. He indicated that the claimant complained of painful neck and shoulder movements and occasional pins and needles in hand, painful also in low back and right knee. That doctor's general description continues "he does have some arthritis spondylosis of spine (and right knee) but this is not severe. He is overweight and also has mild diabetes mellitus which does not seem to trouble him. I think he could do suitable work." He gave as his diagnosis mild cervical spondylosis, very mild lumbar spinal arthritis, very mild arthritis right knee, diabetes mellitus "(no symptoms today)" and obesity. He indicated that the claimant was handicapped as to being unable to do heavy work, indicated as working conditions to be avoided driving - "not HGV or PSV" and outdoor work in all weathers. He graded the claimant's functions as full as regards the climbing of stairs walking and standing, also as to use of hands, graded the claimant's functions as "slight impairment" as to both shoulders, both arms, kneeling, and bending; substantial impairment in climbing ladders and "2-3" - ie. between slight and substantial impairment - as regards lifting/carrying. Under general remarks he indicated:-

"This man is overweight and has a mild degree of arthritis, spondylosis degenerative "[illegible]" in spine also mild arthritis. R knee and diabetes mellitus - the latter presently with no symptoms today and appears to be well controlled. He could do light average manual work within above limits. ERC not likely to be helpful but could be tried if he were willing."

- (2) The report of the examining medical officer dated 23 May 1984 referred to the claimant's locomotor condition as the only system as to which abnormality was detected, but that falls to be read in the context of the general description which next follows, since that refers firstly to arthritis of back - lumbar and cervical spine; but then goes on to record also diabetes millitus and polyarthralgia. He considered the claimant handicapped in frequent bending, in heavy lifting, and in climbing, and in work requiring "frequent neck movements or frequent shoulder movements". He indicated as working conditions to be avoided driving PSV or HGV and working at heights - he did not preclude outdoor work in all weathers. His grading of functions can be characterised as demonstrating greater impairment than had the previous report. He considered the claimant to have full function only as regards both hands, and in climbing stairs, graded both walking standing and bending as "slight impairment", and lifting/carrying as "2-3", but kneeling as "substantial impairment" and climbing ladders as "nil function". He regarded the claimant's disablement by reason of arthritis of neck spine and lower spine as likely to continue, but the diabetes millitus as appearing to be controlled. He also indicated under general remarks:-

"Today he had arthralgia in both knees (causing restrictive movement) and in the L Elbow (full movements). He is much less overweight than in September 1981. He would be fit for work within the above limits. He should have regular hours and regular meals. He has been to ERC in Nov/Dec 1980".

- (3) It is not in dispute that the claimant did attend an ERC course in 1980 - of it he has indicated, and I accept, that it involved standing for longer periods than he could manage, in consequence of which he had a number of days not on the course to recover from days when he had attended and had had to stand for substantial periods.

9. The overall conclusion I have formed in regard to the claimant's medical condition is that he undoubtedly does suffer the symptoms of which he complains, and has substantial

difficulties to contend with. But so do many people who nevertheless manage to carry on a successful working life despite their handicaps. And I think that a measure of the claimant's acute awareness of pain, discomfort and disablement is attributable to the lack under his present regime of any distraction from concentration upon his ailments. I observed, for example, that with only one move, of a few feet, from one seat in the courtroom to another the claimant was able to sustain a close concentration upon the presentation of his appeal without visible discomfort after an hour, and that he made his way back to his original position without apparent difficulty until asked by me whether he wished to take a break from sitting by standing up and walking about the back of the courtroom, whereupon he decided he would. And, having done that for a few minutes, he returned to his seat and took an active part in the proceedings to their conclusion approximately an hour later again without apparent interference with his concentration by reference to any ailment or pain. I did not in the circumstances as a whole accept that the extent of his disabilities was so great that he should be considered incapable of work in the relevant sense without further inquiry into what if any work he might be able to do for which an employer would pay and which he could reasonably be expected to do. It is not, however, in my judgment proper to proceed in such a case as his upon a general assumption that within the limits set by the second examining medical officer in 1984 (as being the more favourable to his case of the 2) there "must be some work he can do". True it is that the burden of proof of incapacity rests upon the claimant. But where a claimant demonstrates that he suffers from acknowledged medical conditions impairing his general command of full functions one has, in my judgment, to go closely into the "real life" duties required in particular occupations and see how the individual circumstances of the claimant (both medically and in relation to his education, training and experience) would or would not, upon the balance of probabilities, qualify him to "fit the bill".

10. In response to my anticipatory directions in this behalf the following were indicated by the adjudication officer as details of occupations which the claimant might be capable of performing, bearing in mind his age, education, and state of health:-

- a. An assistant in a builder's merchant or Do-It-Yourself type of establishment with no heavy lifting and no ladder work; the claimant's previous experience in this trade should assist;
- b. Light work as a viewer - involved in examining manufactured products by sight and touch for conformance to specifications but only using light measuring instruments such as gauges, rulers, protractors etc;
- c. Light assembly work - fixing together by hand previously prepared parts in a batch or mass production assembly line;
- d. Attendant type job in museum, garage or place of interest - being in a booth collecting money and issuing tickets. There are usually facilities in these types of jobs for sitting or standing and for changing position if required."

11. In the light of those suggestions Ms Orbach instituted a number of inquiries, not all of which met with any response, and in addition the claimant produced several recent letters in respect of jobs for which he had applied but in respect of which his application had not been successful. Whilst I accept the factual evidence afforded by the latter, they are not expressed in terms of sufficient materiality to the issues with which I am concerned to provide me with any significant assistance in determining those issues. However, the product of Ms. Orbach's inquiries I have found much more helpful.

12. (1) First of all, she has obtained from a partner in a hardware store in the claimant's home locality an expression of opinion that a person working in a hardware/DIY

store would need to be able to lift heavy weights, and that a person with any back problems would be a liability to the store.

- (2) Secondly, she has produced a letter from the District Secretary of the Amalgamated Union of Engineering Workers in the claimant's own locality which indicates as follows:-

"In response to your request for assistance in connection with possible employment on light assembly by an employee with restricted elbow and arm movement, together with problems with the spine, it would be that physically he would be unable, for any length of time, to control his hands effectively to carry out assembly work.

Normally all simple assembly jobs require more wrist, elbow or forearm manipulation and as these appear to be problem to your client it would appear unlikely that this job would be suitable.

You also refer to viewing as an alternative. This would depend on the sort of company where that employment would be carried out, as viewing often entails the movement of parts and although single parts may be light in weight, it is usual that viewing sections receive some parts in more numbers, and that lifting is to be carried out, unless the most modern conveyor system were in operation, and in my knowledge there is very little evidence in this district of companies having seated non-active viewers."

- (3) Next she has produced a letter from the proprietor of a local Toy Museum which indicates:-

"I regret that a person with the disabilities you describe would be totally unsuitable for the position of attendant in any museum.

Any attendant would have to be alert and quick moving at all times to secure the safety of the premises, show cases and exhibits as well as patrolling constantly (up and down the stairs). There are occasions when unruly teenagers have to be ejected, sometimes forcibly.

There are many other tasks an attendant would be expected to perform during quiet periods, such as cleaning and dusting and generally keeping the galleries tidy. The job of attendant in this museum would only be suited to an able bodied person and there is no possibility of considering a disabled person."

- (4) Ms Orbach also produced a letter from the curator of another local museum about the duties of a museum attendant. That indicates as follows:-

"My attendants at both ... and ... have duties that fall into 3 broad categories:

- A. Cleaning
- B. Security
- C. Miscellaneous.

The cleaning jobs involve both light and moderately heavy work such as the cleaning of high windows and walls. The security work involves the ability to move quickly from floor to floor of the museum during the supervision of visitors and to stand or walk for long periods. In addition to these duties the attendants are required to do a wide variety of tasks to assist the museum staff. These can and do include:-

- (1) Moving display cases - sometimes heavy.
- (2) Assisting in the loading and unloading of vehicles.
- (3) Helping in the erection of display stands.

Although we are equal opportunity employers and are indeed very anxious to employ disabled people, I would be unhappy at the thought of employing as an attendant someone unable to meet all the physical demands of the post."

- (5) Lastly, Ms Orbach obtained a job description and application form from a local self-service garage, in respect of a vacancy for a cashier. I need not go into further detail about the application form than to indicate that it includes a specific enquiry "do you suffer from any health difficulties". I will set out the text of the job description sheet in full:-

"VACANCY FOR A CASHIER

We have an immediate vacancy for a cashier at this station. The terms and conditions of employment would be covered by a written contract with the following as a general description of the job.

HOURS

We are open 7 days a week throughout the year closing only on Christmas Day and Boxing Day. We work 2 shifts each day:

Morning shift: 7.00 am to 2.30 pm
(Sundays: 8.00 am to 2.30 pm)

Afternoon shift: 2.00 pm to 11.00 pm
(Sundays: 2.00 pm to 10.00 pm)

You would be required to work a roster that would give you 4 shifts in every 6 days - by rotation you would work each shift in turn. If other members of the staff are away you might be required to work some extra shifts. We run a holiday credit scheme and this effectively gives you 3 weeks paid holiday a year.

WORK

You would be responsible for the accurate control of cash and other proceeds of this self-service station, and for serving customers with courtesy and efficiency. You would be expected to take part in the general cleaning of the station and the presentation of the merchandise. You will be given careful training for the work. There are times when you will be working on your own. You would be required to wear our smart uniform.

[There is then a paragraph about pay, which I need not detail.]

APPLICANT

This job would suit a mature and responsible person of pleasant appearance and manner. We would require 2 references, preferably from most recent employers."

13. I have set out the foregoing in full because I was in another recent case given to understand that the DHSS have difficulty in obtaining relevant information as to the present - day job requirements for particular present - day jobs. I will now express my conclusions upon the suggestions made by the adjudication officer.
14. Whilst many wholesale and retail establishments employ a cashier, that particular occupation requires skills in figure work as to which the claimant has no relevant past experience, and I doubt has the necessary educational skills either. I reject that occupation as suitable. The assistants employed will ordinarily be as sales assistant, and I read the suggestions under head (a) in this context. Apart from the prolonged standing involved in the occupation of sales assistant, for which I consider the claimant's medical conditions at the material time entirely unfitted him, I consider the concept of there being employment in such capacity in such an establishment which involves neither heavy lifting nor "ladder work" (or at least climbing up and down steps, getting stock to the sales counter and into the customer's custody) as being - in the context of a builder's merchant or Do-It-Yourself type of establishment - entirely unrealistic. And whilst not directly comparable with a hardware store, I think that what the hardware store proprietor has indicated is properly to be taken as generally representative of a "Do-It-Yourself" store. A builder's merchants establishment is, in my view, of a very different order and invariably requires the handling of heavy and often awkward materials. I do not consider either of these suggestions as remotely affording a type of work of which the claimant was capable at the material time and could reasonably be expected to do.
15. As regards "light work as a viewer" the claimant has, for a start, no experience in using such measuring instruments as are referred to. But, beyond that, I accept the realities of the tasks involved as intimated by the Trade Union officer's letter. This also I reject as work fulfilling the material prescription in the claimant's case.
16. As to head (c), assembly work is frequently done on "piecework" and as part of a team - and I accept the claimant's own evidence, based on his own experience as an assembly line worker, that he could not at the material times have kept up the level of activity required but would have had to be "carried" by the rest of the team. As regards lighter bench assembly work, that is in my judgment ruled out in the claimant's case by the need for prolonged sitting involved.
17. As regards head (d), I am satisfied that the claimant was not capable of doing the attendant's job where the job description was of the character indicated in respect of the 2 museums in regard to which Ms Orbach has made inquiry and received particulars. The consideration of this head does not, however, stop there, because - in fairness to the adjudication officer who put the suggestions forward - I take him to be contemplating job activities consisting exclusively in "being in a booth collecting money and issuing tickets". And although the adjudication officer has not provided any supportive evidence as to such jobs existing, it is in my judgment a matter of common general knowledge that they do, in a number of different fields. I am not, however, persuaded that what is no more than an assertion that "there are usually facilities in these types of jobs for sitting or standing and for changing position if required" bears up to the reality. Moreover a number of such posts require constant bending and reaching to take money and hand out tickets, and this is clearly unsuitable for someone with a substantial back condition, which I am prepared to accept the claimant has. I have not overlooked that there is, in addition, within the occupation of "car park attendant" a type of work where the attendant is not confined in a booth and

undoubtedly can move about tolerably freely - but this normally involves outdoor work in all weathers, and that I, note, was - as I would expect, - a work condition indicated in the March 1984 report as one to be avoided. I therefore rule in the claimant's favour under this head also.

18. I have given close consideration as to whether the claimant might not have been capable of working in some simple clerical capacity, notwithstanding that he has no prior work experience in point, in the light of his competence in the written word as demonstrated in the conduct of his present appeal. There is, however, to my mind a sense of unreality about "simple clerical work", not more closely specified, in reference to modern commercial, industrial and business conditions. Long periods of sitting apart, I am not convinced that simple "pen pushing" exists as an occupation for which employers now pay. What may be broadly defined as secretarial occupations demand typing skills, if not more advanced techniques, and often educational qualifications which the claimant could not remotely meet, in addition. And, as the evidence stands, I am not prepared to hold against the claimant on this postulation.

19. It is in my judgment clear that (in accordance with established authorities which were referred to in the submissions of the adjudication officers both to the tribunal and to me of which the claimant has been furnished with a copy, and to which I do not therefore propose to refer in detail) the question of the claimant's capacity or otherwise for work fell at the material time to be decided by reference to the whole field of employments for which an employer would pay a worker, subject to it being work which the claimant could reasonably be expected to do. And, subject to the outturn of the further medical investigations which the consultant's provisional report indicated were in prospect quite recently, I believe that if the claimant was willing to give it his enthusiastic support, and if the facilities could be provided to offer it to him, the claimant has capacities, at present undeveloped, for the duties of an occupation within the field of indoor office or stores work in a clerical capacity for which he could be trained and which might well then "get him out of himself" and back into the field of employment, and that this would be in his own best interests. I am, however, unable as the evidence stands before me to satisfy myself that there is in fact any "real life" occupation for which present day employers do pay and which the claimant could reasonably be expected to perform having regard to his overall circumstances and existing capacities as they stood at the material times. And on that account I have arrived at the decision on his present appeal which I have already indicated.

(Signed) I. Edwards-Jones
Commissioner

Date: 20th November 1985