

C.S. 771/1979

DGR/LF

SOCIAL SECURITY ACTS 1975 TO 1980

CLAIM FOR INVALIDITY BENEFIT

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Decision C.S. 1/81

1. My decision is that (1) the claim to invalidity benefit based on
 - (i) a medical certificate dated 9 June 1978 advising the claimant to refrain from work for 1 year and
 - (ii) a medical certificate dated 23 February 1979 advising the claimant to refrain from work for 13 weeks,

must be disallowed as from 26 February 1979, and (2) that the later claim to such benefit based on a medical certificate dated 18 June 1979 advising the claimant to refrain from work until further notice must be disallowed in toto, on the ground that the claimant has not proved that he was incapable of work by reason of some specific disease or bodily or mental disablement.

2. The claimant, who is only 45, has not worked since 1968 when he was retired from the coal mine on health grounds. The claimant had been in receipt of invalidity benefit from 7 June 1973 when, as a result of 2 anonymous letters received at the local office in December 1977, further investigation took place as to the claimant's condition. The claimant was examined by a medical officer of the Department of Health and Social Security on 16 February 1978, and his diagnosis was to the effect that the claimant was suffering from "anxiety state" with an "inadequate personality". He remarked that the claimant's work motivation was nil but gave it as his view that the claimant was capable of work within certain limits. However, the claimant's own doctor does not seem to have accepted this situation in that he continued to issue certificates advising him to refrain from work.

3. On 7 April 1978 the claimant was seen by a different medical officer of the Department who diagnosed "Psychoneurosis with anxiety features". The opinion of that medical officer was that the claimant was then "in good physical condition" but "mentally he is inadequate,

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he avoids stressful situations by simulated panic symptoms". He added that the claimant was capable of "unskilled lightish manual work without stress or responsibility". Once again the claimant's own doctor refused to accept that the claimant was able to undertake some form of work. However, when on 9 June 1978 he issued a certificate advising the claimant to refrain from work for 1 year, he changed his original diagnosis of "Anxiety state" to "ND" (nervous debility).

4. The claimant was seen for a third time by one of the Department's medical officers on 21 July 1978 when "chronic anxiety state and psychoneurosis superimposed on an inadequate personality" was diagnosed. The medical officer considered the claimant to be capable of work within certain limits.

5. It is perhaps not surprising to find that it was thought prudent to have the claimant examined by a consultant psychiatrist. The examination took place on 4 December by Dr. R. A. Plowman, MB, ChB, DPM, who gave one of the most direct and forthright reports that I have ever seen. As far as he was concerned the claimant's condition was attributable to a "major defect of personality rather than a mental illness".

6. In the light of the evidence the insurance officer disallowed invalidity benefit in respect of the period from 26 February 1979 to 8 June 1979 on the ground that the claimant had not proved that he was incapable of work by reason of some specific disease or bodily or mental disablement. The claimant appealed against that decision to the local tribunal, and the insurance officer took the opportunity of referring to that body for decision the further period from 18 June 1979 until further notice, in respect of which the claimant's doctor had issued a further certificate. The local tribunal dismissed the appeal and disallowed the claim for the period referred. Thereupon the claimant lodged an appeal to the Commissioner and asked for an oral hearing, a request to which I acceded. At such hearing the claimant appeared in person, though for part of the time he was represented by his brother Mr A Roebuck, and the insurance officer was represented by Mr Burns of the Chief Insurance Officer's Office.

7. Section 17(1) of the Social Security Act 1975 provides that it is a condition of entitlement to invalidity benefit that a claimant is, or is deemed in accordance with regulations to be, incapable of work by reason of some specific disease or bodily or mental disablement. It is not enough merely to be incapable of work; such incapacity has to stem from some specific disease or bodily or mental disablement. Moreover, it is manifest that in this context the word "specific" governs not merely the word "disease", but also the words "bodily or mental disablement". Accordingly, in the present case even if the claimant is in fact incapable of undertaking any form of work, he will not be entitled to invalidity benefit for the periods under appeal unless he can demonstrate that he was at the relevant time suffering from a specific complaint.

8. Now, admittedly the medical officers of the Department have given a name to the claimant's condition, e.g. "chronic anxiety state", "psychoneurosis with anxiety features". Moreover, the claimant's own doctor has described his condition as being "anxiety state" or on another occasion "nervous debility". However, the consultant psychiatrist Mr R A Plowman in his unequivocal view attributes the claimant's condition to plain defect of character. In particular, in connection with the description "anxiety state" he refuses "to grace the claimant's collection of symptoms with that title". His diagnosis is one of "Inadequate Personality - verging on Inadequate Psychopathic Personality by virtue of his total self indulgence and extreme degree of sheltering behind psychiatric symptoms to avoid responsibility". Mr Plowman attributes the claimant's condition to "his dismal personality structure rather than illness". The conclusion of Dr Plowman's report on the claimant reads as follows:

"This is the type of individual who makes ones hackles rise. He has been of no value to society for years, a broken weed of a husband and a hopeless model for his luckless children. Whilst one suspects that he enjoys his restricted life-space and has intellectually no intention of working again there is no means available to bring enough pressure to bear on him to get him into an occupation. As a colleague once remarked 'I can make bricks without straw but without clay as well I can do nothing'. These are my feelings about this "man" and I think that society must admit defeat and leave him to his life of trivia".

9. This report is harsh, and contains observations that can only rarely have been made about a claimant sent to a consultant psychiatrist for examination. However, I must pay heed to it. Doctor Plowman leaves me in doubt that in his view

- (1) The claimant is not suffering from any specific disease or mental disablement, but his condition is attributable to gross defects of character, and
- (2) notwithstanding the absence of any identifiable medical condition, he is nevertheless incapable of all forms of work.

10. I have seen the claimant and heard what he has to say. I have seen his reactions to questions, and I have no doubt that he is quite incapable in his present state of undertaking any form of work. I am, of course, aware that the medical officers of the Department have stated otherwise, but I prefer the forthright view on this point of Doctor Plowman which confirms the impression I myself formed on seeing and hearing the claimant.

11. In fairness to the claimant, he has told me, as he appears to have told the local tribunal, that he would like very much to resume working. It is an affront to his pride that he is not in a position to earn money of his own, and to buy, for example, presents for his grandchildren. I am satisfied that part of the claimant genuinely yearns to

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resume work and take his place in society - he is still only 45 years old - but, unfortunately, the other part of his personality prevents him from undertaking, or even contemplating undertaking, even the simplest of jobs with minimal responsibility. In other words, the negative side of his personality has so dominated his whole being that he has become a mere passenger along life's journey dependent upon society and unable to contribute thereto. It may be that his condition will in the fullness of time be identified with some disease or mental disablement. However, that is mere speculation on my part. I have to consider the evidence as it now stands in the light of medical science as it is known today.

12. In view of the evidence I am satisfied that the claimant is not suffering from any specific disease or bodily or mental disablement, and accordingly he does not satisfy the conditions for an award of invalidity benefit.

13. I dismiss this appeal.

(Signed) D G Rice
Commissioner

Date: 6 February 1981

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Region: Yorkshire and Humberside