

MJG/SH/16/MD

Commissioner's File: CA/100/1986

DHSS File: SD 450/2178

SOCIAL SECURITY ACTS 1975 TO 1986
APPEAL FROM DECISION ON REVIEW OF ATTENDANCE ALLOWANCE BOARD
ON A QUESTION OF LAW

Name: Mohammed Sarwar

1. I dismiss the claimant's appeal against the decision of the Attendance Allowance Board (on review) dated 12 March 1986, as that decision is not erroneous in law: Social Security Act 1975, section 106.
2. This is an appeal to the Commissioner by the claimant, a man born on 6 April 1935, against the decision dated 12 March 1986 of the Attendance Allowance Board, refusing on review to revise a decision of a delegated medical practitioner dated 12 June 1984, to the effect that the claimant did not satisfy any of the day or night conditions for attendance allowance in section 35 of the Social Security Act 1975. These conditions are set out in the appeal papers and I will not repeat them in detail here.
3. In this jurisdiction, appeal lies to the Commissioner only on a point of law. On issues of fact, medical opinion, diagnosis etc, the decision of the Attendance Allowance Board or its delegate is final. I am satisfied, having made a careful examination of all the papers in this case, including the detailed written representations from the claimant and his grounds of appeal, that there is no error of law involved in the Attendance Allowance Board's decision of 12 March 1986, neither in the content thereof nor in the procedure by which it was arrived at. The claimant refers to "breach of natural justice" but it appears that he misunderstands that expression since that would relate for example to something defective in the procedure by which the decision was arrived at. But the Attendance Allowance Board fully complied with the normal requirements for prior notification of their proposed decision etc and no failure of natural justice arises. When the claimant refers to breach of natural justice, he is really referring to his contention that the Attendance Allowance Board misinterpreted the medical evidence before it. However, that is entirely a medical or factual question and not a matter on which I can interfere.
4. I have considered with care the detailed written submission dated 3 November 1986 on behalf of the Secretary of State for Social Services, in which each and every element of the Attendance Allowance Board's decision is examined and I accept the ultimate conclusion of the Secretary of State's representative that there is nowhere revealed, in the Board's judgments on factual and medical issues, any error of law.
5. As to the claimant's assertion that the earlier medical reports by examining medical officers, dated 23 November 1983 and 27 March 1984 respectively, were invalid because the medical officers filled in the reports in their own time and merely got the claimant to sign blank forms, that is a matter which is dealt with fully in a prior decision of a Commissioner

on an earlier appeal by the claimant on Commissioner's file CA/134/1984. In paragraph 10 of that decision, the Commissioner indicates why she does not consider that this allegation reveals any error of law. I agree with what she has said and affirm her decision on the point.

6. I am sorry to read of the considerable medical difficulties from which the claimant has been suffering for some number of years and I hope that some amelioration occurs. But I cannot interfere with the Attendance Allowance Board's decision as there is no error of law revealed nor can I give any expression of opinion on the factual or medical merits of the claim, which in any event only a medically qualified person (which the Commissioner is not) would be able to do.

(Signed) M.J. Goodman
Commissioner

Date: 9 April 1987