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Commissioner's File: CIS/281/94

SOCIAL SECURITY ACT 1986  
SOCIAL SECURITY ADMINISTRATION ACT 1992

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

Name: John Twyford

Social Security Appeal Tribunal: Birmingham

Case No: 401/93/06982

1. My decision is that the decision of the Birmingham social security appeal tribunal dated 4 February 1994 is not erroneous in point of law.

2. This is an appeal by the claimant to the Commissioner with the leave of the Commissioner against the unanimous decision of the appeal tribunal in respect of the decision of the adjudication officer first involved in these appeals.

3. The facts of the case are dealt with in box 5 of the written submission of the adjudication officer first involved in these appeals as follows:-

"Mr Twyford is a separated man aged 53 who lives alone in an owner-occupied house. He is sick and in receipt of invalidity benefit and income support.

On various dates his children Mark and Gemma (19) came to stay with the claimant. The claimant made a claim for an increase in his income support entitlement on 13.7.93. Mark and Gemma normally reside with their mother, Mrs Twyford, who receives child benefit in respect of them.

The claimant has appealed against the decision to refuse an increase in his income support in respect of Mark and Gemma because he had to provide them with food and shelter while they stay with him and had incurred extra expenses in this respect. The claimant's contention is that he should be entitled to an amount in respect of Mark and Gemma plus the family premium and lone parent premium. No other aspect of his claim is in dispute.

In respect of those matters and on the submission dated 8 August 1994 of the adjudication officer now involved in these appeals the claimant through his representatives has had the opportunity to comment and I have followed the Commissioner's

ruling granting an extension of time dated 22 November 1994), the observations made on behalf of the claimant dated 29 November 1994. No useful purpose is to be served by my setting out these matters afresh here.

4. The relevant statutory provisions are:-

"Income Support (General) Regulations 1987, regulation 15;

House of Lords judgment Brind and Ors v. Secretary of State for the Home Department [1991] 1 All ER. European Convention on Human Rights, Article 8.

A copy of the decision in Brind's case has been helpfully added to the case papers at pages 57 and following. The relevant extracts ~~are~~ from Article 8 of the European Convention on Human Rights are set out in paragraph 5 of the submission as also are the observations of Lord Bridge of Harwich in the Brind case at paragraph 6 of the submission.

5. In my judgment the decision of the appeal tribunal is not erroneous in point of law. I have considered very carefully the arguments put forward on behalf of the claimant by his representatives in particular the observations referred to in paragraph 3 above, together with the documentation contained in the case papers. I have also considered the submission dated as aforesaid of the adjudication officer now involved. I do not think that it is necessary for me to recite the careful arguments put forward by both sides. I have to bear in mind that I can allow an appeal only if I am satisfied that the decision of the appeal tribunal was erroneous in point of law. What is an error of law is helpfully dealt with by the Commissioner in decision R(I) 14/75 where he adumbrates five grounds in respect of any one or more of which I am empowered to set aside the decision of the appeal tribunal in the instant case. I am satisfied on each ground in the instant case. The European Convention on Human Rights has not been implemented under the law of the United Kingdom. Implementation of the Convention has been supported by various United Kingdom statutes and instruments including at least one former Law Lord. However it is not part of the United Kingdom law. In my judgment the Income Support (General) Regulations do not conflict with the European Convention on Human Rights and accordingly they do not assist the claimant. On the face of the record of the appeal tribunal they took into consideration the relevance of the European Convention on Human Rights and also gave consideration to the House of Lords decision in Brind referred to in paragraph 4 hereof. However on the issue of regulation 15 in particular 15(1) and 15(4) addressed in the observations dated 29 November 1994 together with the provisions there referred to of section 17(2)(m) of the Social Security Contributions and Benefits Act 1992 I am not persuaded by the arguments there set out and see no useful purpose to be served by pursuing these issues (interesting though they may be) further here.

6. In accordance with my jurisdiction my decision is as set out

in paragraph 1 of this decision.

7. Accordingly the claimant's appeal is dismissed.

(Signed) J B Morcom  
Commissioner

Date: 15 AUG 1995  
15 AUG 1995