

CPAC

DGR/SH/13

Commissioner's File: CIS/384/1990

SOCIAL SECURITY ACT 1986

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

DECISION OF THE SOCIAL SECURITY COMMISSIONER

1. For the reasons set out below, the decision of the social security appeal tribunal given on 12 January 1990 is not erroneous in point of law, and accordingly this appeal fails.

2. This is an appeal by the claimant, brought with the leave of the tribunal chairman, against the decision of the social security appeal tribunal of 12 January 1990.

3. The grounds of appeal relied upon by the claimant can be summarised as follows. The tribunal erred because:-

(i) the tribunal chairman has attempted to replace the appellant's application with a forgery in which he portrays a fictitious person who has no respectable case to present,

(ii) it is unlawful for a tribunal convened to consider an application for setting aside to conceal the liability of a previous tribunal chairman,

(iii) the payment of income support at the reduced rate was unlawful as it interfered with his "sound and vigorous activity .... directed towards securing suitable employment".

4. The adjudication officer now concerned has made some helpful submissions. He contends as follows:-

" 5. In my submission I would adopt the line taken by the 'setting aside' tribunal (page 100, para 4) with regard to the claimant's first reason for his appeal. I would agree that the references to paranoia and sanity were both

unnecessary and needlessly hurtful to the claimant. Such findings were of no relevance to the tribunal's decision and it is regrettable that they were made. However taking the tribunal decision in its entirety I would submit that this issue did not render their decision erroneous in law.

6. In so far the claimant's second point is concerned, there is no right of appeal against the refusal to set aside a tribunal decision. In paragraph 10 of R(SB) 23/83, the Commissioner accepted that a tribunal has 'a self-contained code governing the power to correct or set aside decisions, which is not subject to the appeal provisions.' The 'setting aside' tribunal in following Commissioner's Decision R(U) 3/89 concerned themselves only with procedural matters relating to the rules of natural justice and in my submission they did not attempt to conceal any part of the decision of the original tribunal.

7. I further submit that the tribunal have not erred in all in reaching their decision regarding the availability of the claimant, the restrictions he has placed on the nature of the work he is prepared to accept and the absence of prospects of employment. They have made sufficient findings of fact and given adequate reasons to judicially support the decision they have made on these issues."

I accept all those submissions. The tribunal had to make a value judgment on the evidence before them, and I see no grounds for my interfering with their conclusion. Accordingly I have no option but to dismiss this appeal.

(Signed) D.G. Rice  
Commissioner

(Date) 3 February 1992