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**Tribunal procedure—Conditional award of benefit**

A local tribunal purported to allow a claim for widow's pension "provided that claimant ceases work on medical advice".

*Held* that it was not open to the tribunal to do this. They could not allow widow's pension from some unascertained future date.

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1. My decision is that a widow's pension under the National Insurance Act, 1946 was not payable to the claimant from and including the 28th May, 1952.

2. The claimant's late husband died on the 18th January, 1951 and a widow's allowance was awarded to her from the 23rd January, 1951 to the 23rd April, 1951. No widow's pension under the National Insurance Act, 1946 was paid to her thereafter, because she did not satisfy the provisions

of Section 17(1)(c) or Section 18(1) of that Act. Nor was there any suggestion at that time that the claimant was incapable of self-support by reason of infirmity.

3. On the 21st May, 1952 the claimant claimed a widow's pension under the National Insurance Act, 1946, basing her claim on the allegation that she was incapable of self-support. She was working at that time and earning £2 16s. 0d. a week, but it appeared clear from her doctor's evidence that, in his view, she was not fit for this work and ought to work only part-time.

4. The local tribunal allowed her claim "provided that claimant ceases work on medical advice". It was not open to the local tribunal, in my view, to deal with the case in that manner. They could not allow widow's pension from some unascertained future date.

5. But, apart from this, the whole matter appears to have been dealt with before the local tribunal on a misconception of the questions in issue.

6. The relevant provisions of the regulations, on which the claimant had to rely for the success of her claim, were those contained in the National Insurance (Widow's Benefit and Retirement Pensions) Regulations, 1948 [S.I. 1948 No. 1261] Regulation 2(1). That regulation, so far as material to this case, provides that "where a widow in relation to whom neither the conditions for a widow's pension contained in" Section 17(1)(c) "nor the alternative conditions contained in" Section 18(1) of the Act, "are satisfied, would, but for the provisions of this regulation, cease to be entitled to widow's benefit *at a time when* she is by reason of any infirmity incapable of self-support . . . she shall, for any subsequent period during which she is incapable of self-support by reason of that infirmity" be entitled to a widow's pension.

7. The claimant ceased to be entitled to widow's benefit on the 23rd April, 1951, because neither the conditions of Section 17(1)(c) nor of Section 18(1) of the Act were satisfied in her case and she had, accordingly, to show that at that time she was incapable of self-support. It was only if she could show *that* that subsequent periods of incapacity for self-support would assist her to establish a right to a widow's pension.

8. There was no suggestion that she had been incapable of self-support in April, 1951. Her claim, therefore, failed.

9. I must allow the insurance officer's appeal.

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