
Trade dispute—grade or class of workers

A haulage motorman employed in a colliery lost employment by reason of an unofficial stoppage of work which originated with brushers (piece workers). Some oncost workers took part in the dispute. Claimant contended that he belonged to a grade of workers who presented themselves for work and who did not participate in the dispute.

Held that the claimant belonged to the *class* of oncost workers, some of whom participated in the dispute, and that he was thereby subject to disqualification. Not to the point that he belonged to a *grade* no member of which was participating.

1. My decision is that the claimant is disqualified for receiving unemployment benefit from the 4th February 1958 to the 6th February 1958 (both dates included) ; in terms of section 13(1) of the National Insurance Act, 1946.

2. The claimant is a registered disabled person employed as a haulage motorman at C. colliery. During the period from the 4th February 1958 to the 6th February 1958 he lost employment by reason of a stoppage of work which was due to a trade dispute at his place of employment and which continued until the 6th February 1958. By virtue of the provisions of section 13(1) of the National Insurance Act, 1946 the claimant is therefore disqualified for receiving unemployment benefit for the period in question unless he proves—

“(a) that he is not participating in or financing or directly interested in the trade dispute which caused the stoppage of work ; and

(b) that he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at his place of employment any of whom are participating in or financing or directly interested in the dispute.”

3. The onus of proving both (a) and (b) above lies upon the claimant—Decision R(U) 27/55.

4. The local tribunal were satisfied (unanimously) that the claimant himself was not participating in or financing or directly interested in the dispute, and also that no member of the grade or class to which he belonged

was financing or directly interested in the dispute. But they were not satisfied that no member of the grade or class of workers to which the claimant belonged was participating in the dispute. It is this finding which the claimant must displace if his present appeal is to succeed.

5. The stoppage in question was an unofficial stoppage. It appears to have originated with the brushers, who on the 30th January 1958 withdrew their labour following a dispute about remuneration. Some of the workers (other than the brushers) presented themselves for work but there was no work for them. Although the dispute was directly concerned with the remuneration of brushers, a meeting of all workers was called by an official of the association concerned, and this was attended not only by brushers but by others. The claimant did not attend the meeting, and he was one of those who presented themselves for work. The contention of the claimant is that the "grade" to which he belongs is the grade of motormen, and that none of the motormen participated in the dispute. The claimant has to prove that he does not belong to a grade *or class* of workers of whom none participated, and the insurance officer contends that the factor which is relevant for present purposes is that he belongs to the *class* of oncost workers. Looking to the guidance afforded by Decision R(U) 25/53, I think the proper approach is to consider (first) what grade or class of workers participated in the dispute, and then consider whether the claimant has shown that he falls outside that category. In the present case there is evidence from which the local tribunal were entitled to infer that some at least of the oncost workers participated in the dispute. The tribunal therefore rightly went on to consider whether the claimant belonged to the class of oncost workers. This question admitted only of an affirmative answer: and it is not to the point to prove (as the claimant has sought to do) that he belongs to a *grade* (i.e. of motormen) no member of which was participating. I must agree with the local tribunal that the claimant has failed to discharge the *onus* which lies upon him, and accordingly he does not escape disqualification in terms of the Statute.

6. The appeal of the claimant is not allowed.
