



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

CASE OF SAWDEN v. THE UNITED KINGDOM

(Application no. 38550/97)

JUDGMENT
(Friendly Settlement)

STRASBOURG

12 March 2002

In the case of Sawden v. the United Kingdom,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Sir Nicolas BRATZA,
Mr L. LOUCAIDES,
Mr C. BÎRSAN,
Mr K. JUNGWIERT,
Mr V. BUTKEVYCH,
Mrs W. THOMASSEN, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 19 February 2002,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 38550/97) against the United Kingdom of Great Britain and Northern Ireland lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an United Kingdom national, Dean Edward Sawden (“the applicant”), on 29 October 1997.

2. The applicant was represented before the Court by Ms R. Lister, an officer at the Welfare Rights Service, Kingston-upon-Hull. The United Kingdom Government (“the Government”) were represented by their Agent, Mr C.A. Whomersley, Foreign and Commonwealth Office.

3. The applicant complained that British social security and tax legislation discriminated against him on grounds of sex, in breach of Article 14 of the Convention taken in conjunction with both Article 8 of the Convention and Article 1 of Protocol No. 1. He further complained under Article 13 of the Convention of not having had an effective remedy before a national authority.

4. On 8 June 1999, after obtaining the parties’ observations, the Court (Third Section) declared the application admissible. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Second Section (Rule 52 § 1).

5. In the meantime, on 22 August 2001, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 4 September 2001 and on 14 September 2001 the Agent of the Government and the applicant’s representative respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant married in July 1994. The applicant and his wife had two children, born in 1989 and 1992. The applicant's wife died of cancer on 11 August 1997, aged 28 years. The applicant is the administrator of his late wife's estate.

7. The applicant's wife was employed as a shop assistant for four years and contributed about half of their joint income. She paid full social security contributions as an employed earner, except when she gave up work to care for their children and was subsequently entitled to contribution credits as a person who was incapable of work. The applicant gave up work to nurse his wife and care for their children in January 1997.

8. On 8 September 1997 the applicant applied to the Benefits Agency for the payment of social security benefits. He applied for benefits equivalent to those to which a widow, whose husband had died in similar circumstances to those of Mrs Sawden, would have been entitled, namely a Widow's Payment and a Widowed Mother's Allowance, payable under the Social Security and Benefits Act 1992 ("the 1992 Act").

9. By a letter dated 24 September 1997, the Benefits Agency informed the applicant that he was not entitled to any of the money he had claimed. The applicant lodged an unsuccessful appeal against this decision on 2 October 1997.

10. The applicant wished to increase his income and continue to care for his children by working part time. However, under Income Support Rules any earnings over GBP 15 per week would be deducted from his benefit. His family's standard of living was thus effectively fixed at a low level until circumstances changed to allow him to return to full time work. If the applicant had been entitled to receive social security benefits equivalent to those to which a woman in similar circumstance to himself would have been entitled, he could have worked part time and would have received benefits of around GBP 85 per week. He would also have received a one off Widow's Payment of GBP 1,000.

11. Under the Welfare Reform and Pensions Act 1999 bereavement benefits became available to both men and women as of 9 April 2001.

THE LAW

12. On 4 September 2001 the Court received the following declaration from the Government:

"I declare that the Government of the United Kingdom offer to pay GBP 1,000 to Mr Dean Edward Sawden with a view to securing a friendly settlement of the application registered under no. 38550/97. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months

from the date of delivery of the judgment by the Court pursuant to the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

13. On 14 September 2001 the Court received from the applicant’s representative the following declaration signed by him:

“I note that the Government of the United Kingdom are prepared to pay me a sum totalling GBP 1,000 covering both pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of application no. 38550/97 pending before the Court.

I accept the proposal and waive any further claims in respect of the United Kingdom relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court’s judgment.”

14. The Court takes note of the agreement reached between the parties (Article 39 of the Convention) and the amended legislation (paragraph 11 above). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

15. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties’ undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 12 March 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President