



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

FOURTH SECTION

CASE OF ANDERSON v. THE UNITED KINGDOM

(Application no. 73652/01)

JUDGMENT

STRASBOURG

20 November 2007

FINAL

20/02/2008

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Anderson v. the United Kingdom,

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

Mr J. CASADEVALL, *President*,

Sir Nicolas BRATZA,

Mr G. BONELLO,

Mr K. TRAJA,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Mrs P. HIRVELÄ, *judges*,

and Mr T.L. EARLY, *Section Registrar*,

Having deliberated in private on 23 October 2007,

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

PROCEDURE

1. The case originated in an application (no. 73652/01) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by Mr Andrew Anderson ("the applicant"), on 31 May 2001.

2. The applicant was unrepresented before the Court. The United Kingdom Government ("the Government") were represented by their Agent, Mr C. Whomersley of the Foreign and Commonwealth Office, London.

3. The applicant complained that the United Kingdom authorities' refusal to grant him Widow's Bereavement Allowance or equivalent constituted discrimination on grounds of sex contrary to Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1.

4. On 15 October 2002 the Court decided to communicate the complaint concerning Widow's Bereavement Allowance and to declare the remainder of the application inadmissible. It was subsequently decided under the provisions of Article 29 § 3 of the Convention, to examine the merits of the application at the same time as its admissibility.

THE FACTS**I. THE CIRCUMSTANCES OF THE CASE**

5. The applicant was born in 1923 and lives in Penrith.

6. His wife died on 22 December 1994. On 22 January 2001 the applicant made a claim to the Inland Revenue requesting an allowance equivalent to that received by a widow, namely Widow's Bereavement Allowance ("WBA"). On 22 February 2001 the Inland Revenue informed him that he was ineligible for WBA as he was not a woman. The applicant did not appeal further as he considered or was advised that such a remedy would be bound to fail since no such benefit was payable to widowers under United Kingdom law.

II. RELEVANT DOMESTIC LAW

7. The relevant domestic law and practice is described in the Court's judgment in the case of *Hobbs, Richard, Walsh and Geen v. the United Kingdom*, nos. 63684/00, 63475/00, 63484/00 and 63468/00, judgment of 26 March 2007.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 1 OF PROTOCOL NO. 1

8. The applicant complained that the United Kingdom authorities' refusal to grant him WBA or equivalent constituted discrimination on grounds of sex contrary to Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1.

Article 14 of the Convention provides:

"The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."

Article 1 of Protocol No. 1 provides:

"1. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

2. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

9. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

10. The Court has previously examined cases raising issues similar to those in the present case and found a violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 (*Hobbs, Richard, Walsh and Geen v. the United Kingdom*, nos. 63684/00, 63475/00, 63484/00 and 63468/00, judgment of 26 March 2007, §§ 53-54).

11. The Court has examined the present case and finds that the Government have not presented any facts or arguments which would lead to a different conclusion in this instance. Therefore the Court considers that the difference in treatment between men and women as regards entitlement to WBA, of which the applicant was a victim, was not based on any “objective and reasonable justification” (see *Hobbs*, cited above, § 53).

12. There has accordingly been a violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

13. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

14. The applicant claimed the equivalent of the tax allowance due, in respect of pecuniary damage.

15. The Government contested the argument on the basis of the Court's jurisprudence.

16. In its lead judgment regarding WBA the Court found no reason to remedy the inequality of treatment by “levelling up” and awarding the value of tax benefits which had been found to be unjustified. It accordingly made no award in respect of the pecuniary loss alleged to have been suffered (see *Hobbs, Richard, Walsh and Geen v. the United Kingdom*, cited above, § 69).

17. The Court finds no reason to depart from this finding and consequently no award can be made under this head.

B. Costs and expenses

18. The applicant stated that he had not incurred any legal costs and expenses.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the remainder of the application admissible;
2. *Holds* that there has been a violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 concerning the applicant's non-entitlement to a Widow's Bereavement Allowance;
3. *Dismisses* the applicant's claim for just satisfaction.

Done in English, and notified in writing on 20 November 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

T.L. EARLY
Registrar

Josep CASADEVALL
President