



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

FOURTH SECTION

CASE OF HIGHAM v. THE UNITED KINGDOM

(Application no. 64735/01)

JUDGMENT

STRASBOURG

22 January 2008

FINAL

07/07/2008

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 Higham v. the United Kingdom,

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

Josep Casadevall, *President*,

Nicolas Bratza,

Giovanni Bonello,

Kristaq Traja,

Stanislav Pavlovski,

Ján Šikuta,

Paivi Hirvelä, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 4 January 2008,

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

PROCEDURE

1. The case originated in an application (no. 64735/01) 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 John Higham (“the applicant”) on 24 October 2000. Having originally been designated by the initials J.H., the applicant subsequently agreed to the disclosure of his name.

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

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. By a partial decision of 4 December 2001 the Court decided to communicate the complaint concerning Widow’s Bereavement Allowance and declared the remainder of the application inadmissible. It also decided to join this application to other applications (nos. 60525/00, 60933/00, 60937/00, 60944/00, 61038/00, 61388/00, 61949/00, 62776/00, 63388/00, 63464/00, 63469/00, 63470/00, 63473/00, 63474/00, 63584/00, 63645/00, 63701/00, 63702/00, and 65723/01). By a decision of 26 August 2003 the Court declared the remainder of the application admissible.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1943 and lives in Blackpool.

6. His wife died on 7 September 1997. On 19 July 2000 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 16 August 2000 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 allowance was granted to widowers under United Kingdom law.

II. RELEVANT DOMESTIC LAW

7. The relevant domestic law and practice are 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.”

9. 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).

10. The Court has examined the present case and finds that there are no facts or arguments from the Government which would lead to any 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).

11. 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

12. 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

13. On 10 April 2007 the Registry requested the applicant to confirm by 16 May 2007 whether a friendly settlement had been reached following the decision in *Hobbs, Richard, Walsh and Geen v. the United Kingdom* (cited above) and if not to submit claims under Article 41 of the Convention. The applicant did not reply, and he did not request an extension of time. On 17 July 2007 the applicant submitted his claim for non pecuniary damage. He requested 1,000 pounds sterling (GBP) for suffering and distress.

14. Even assuming the applicant had submitted his claims within the time-limit allowed, the Court does not accept that he was caused real and serious emotional damage as a result of being denied a tax allowance of the relatively low value of the WBA (*ibid* § 72). No award can accordingly be made under this head.

B. Costs and expenses

15. The applicant made no claim under this head.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to disjoin the application from the others to which it was joined;
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 22 January 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Josep Casadevall
President