



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

FOURTH SECTION

CASE OF BOND v. THE UNITED KINGDOM

(Application no. 63479/00)

JUDGMENT

STRASBOURG

1 April 2008

FINAL

01/07/2008

This judgment may be subject to editorial revision.

In the case of Bond v. the United Kingdom,

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

Lech Garlicki, *President*,

Nicolas Bratza,

Stanislav Pavlovski,

Ljiljana Mijović,

David Thór Björgvinsson,

Ján Šikuta,

Päivi Hirvelä, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 11 March 2008,

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

PROCEDURE

1. The case originated in an application (no. 63479/00) 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 Grattan Bond (“the applicant”) on 2 November 2000.

2. The applicant was represented before the Court by Pierce Glynn Solicitors, London. 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 widows’ social security and tax benefits 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 decision of 8 October 2002 the Court decided to communicate the complaint in connection with his claim for widows’ benefits, relating to discrimination suffered by him during the period after the date on which he lodged his “second” claim for widows’ benefits and his claim for Bereavement Tax Allowance. It declared the remainder of the application inadmissible. Under the provisions of Article 29 § 3 of the Convention, it subsequently decided 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 1953 and lives in Merseyside.

6. His wife died on 4 November 1997, leaving one child born in 1992. His second claim for widows' benefits was made in May 2000 and was rejected on 26 May 2000 on the ground that he was not entitled to widows' benefits because he was not a woman. After asking for reconsideration, the decision was again confirmed on 13 June 2000. The applicant appealed to the Social Security Tribunal which on 2 October 2000 confirmed the previous decision. The applicant did not appeal further as he considered or was advised that such a remedy would be bound to fail since no such social security benefits were payable to widowers under United Kingdom law.

7. On 1 November 2000 the applicant applied to the Inland Revenue, requesting an allowance equivalent to that received by a widow, namely Widow's Bereavement Allowance ("WBA") for the years 1997/8 and 1998/9. On 14 November 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 social security benefits were payable to widowers under United Kingdom law.

II. RELEVANT DOMESTIC LAW AND PRACTICE

8. The relevant domestic law and practice is described in the Court's judgment in the case of *Willis v. the United Kingdom*, no. 36042/97, §§ 14-26, ECHR 2002-IV and *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 OR 8 OF THE CONVENTION.

9. The applicant complained that the United Kingdom authorities' refusal to pay him the social security and tax benefits to which he would have been entitled had he been a woman in a similar position, constituted

discrimination against him on grounds of sex contrary to Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 or Article 8 of the Convention.

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.”

Article 8 provides (as relevant):

“1. Everyone has the right to respect for his private and family life...

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of ... the economic well-being of the country...”

A. Widowed Mother’s Allowance

1. Admissibility

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

2. 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 (see *Willis*, cited above, §§ 41-43).

11. 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 WMA, of which the applicant was a victim, was not based on any “objective and reasonable justification” (see *Willis*, cited above, § 42).

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

13. The Court, having concluded that there has been a breach of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1 as regards the applicant's non-entitlement to WMA, does not consider it necessary to examine his complaints in that regard under Article 14 taken in conjunction with Article 8 (see *Willis*, cited above, § 53).

B. Widow's Bereavement Allowance

1. Admissibility

14. The Government submitted that in order to obtain WBA a tax payer had to be liable to pay income tax for the years to which his claim related. The applicant was not working at the time of his wife's death and the Revenue records indicated that he had insufficient income in each of the relevant years of assessment to benefit from an income tax reduction. Thus, had he been a woman he would not have been entitled to any reduction in income tax.

15. The Court recalls that under Article 34 of the Convention it may receive applications from individuals and others "claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto". In order to claim to be a victim of a violation, a person must be directly affected by the impugned measure (see, for example, the *Buckley v. the United Kingdom*, judgment of 25 September 1996, *Reports of Judgments and Decisions* 1996-IV, p. 1288, §§ 56-59). In the present case, the applicant cannot be said to have been directly affected by the discrimination of which he complains, since a woman in the same position who had had insufficient income in the relevant years of assessment to benefit from an income tax reduction would have had no entitlement to WBA under domestic law (see, *mutatis mutandis*, *Rogan v. the United Kingdom*, no. 57946/00, decision of 8 September 2001).

16. It follows the applicant cannot claim to have been a victim of a violation of his rights under the Convention and First Protocol, and that this complaint is incompatible *ratione personae* with the provisions of the Convention and must be declared inadmissible in accordance with Article 35 §§ 3 and 4 of the Convention.

C. Widow's Pension

1. Admissibility

17. The Court notes that the applicant's child will soon cease to be a minor and consequently the applicant will soon cease to be entitled to WMA. Thus, the claim in respect of Widow's Pension ("WP") will no longer be hypothetical.

18. However, the Court held in its lead judgment regarding WP that at its origin, and until its abolition in respect of women whose spouses died after 9 April 2001, WP was intended to correct "factual inequalities" between older widows, as a group, and the rest of the population and that this difference in treatment was reasonably and objectively justified. Moreover, the Court considered that the United Kingdom could not be criticised for not having abolished WP earlier and that it was not unreasonable of the legislature to decide to introduce the reform slowly (see *Runkee and White v. the United Kingdom*, no. 42949/98, §§ 40-41, 25 July 2007). The Court, consequently, considering it was not necessary to examine separately the complaint in respect of Article 8, did not find a violation of Article 14 taken in conjunction with Article 1 of Protocol No. 1 in respect of the non-payment to the applicants of Widow's Pension or equivalent (*ibid* § 42).

19. Consequently, this complaint is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. 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. Pecuniary damage

21. In respect of pecuniary damage the applicant claimed the following amounts:

- (i) GBP 1,000 for Widow's Payment;
- (ii) GBP 16,696.40 for WMA payments from 4 November 1997 to 9 April 2001 (less incapacity benefit);
- (iii) Interest at the rate of 8% on the above amounts, namely, GBP 991.58;
- (iv) Christmas bonus, GBP 30;

- (v) Loss of income in the amount of GBP 220,950;
- (vi) Payment of WBA due, plus interest at 8 %;
- (vii) Payment of WP from 2008 onwards.

22. The Government submitted that the application was only admissible in relation to the claim introduced in 2000 and that therefore the sum to which the applicant was entitled in respect to WMA amounted to GBP 892.61 including interest. The Government did not comment upon claims already declared inadmissible and contested the other remaining claims.

23. The Court notes that it has only found a violation in respect of WMA, and only for the period after the date on which the applicant lodged his “second” claim. In these circumstances, the Court awards compensation to the applicant of GBP 892.61 (approximately 1,200 euros) in respect of the refusal to grant him WMA up to 9 April 2001 and interest on that sum. The Court further considers that there is no causal link between the remaining pecuniary damage alleged by the applicant and the violation found in the present case (see *Central Mediterranean Development Corporation Limited v. Malta*, no. 35829/03, § 58, 24 October 2006). It therefore makes no award in respect of those claims.

B. Non-pecuniary damage

24. The applicant claimed GBP 11,134.61 for the hurt and distress caused by the alleged violation.

25. The Government contested the claim.

26. The Court does not find it established that the applicant was caused real and serious emotional damage as a result of being denied the benefit in question. No award can accordingly be made under this head.

C. Costs and expenses

27. The applicant also claimed GBP 3,528.23 in respect of costs and expenses, inclusive of value added tax (“VAT”).

28. The Government contested the claim, which they believed was excessive, especially in view of the number of inadmissible claims. They submitted that the figure of GBP 1,000 inclusive of VAT would suffice.

29. According to its settled case-law, the Court will award costs and expenses in so far as these relate to the violation found and to the extent to which they have been actually and necessarily incurred and are reasonable as to quantum (see, among other authorities, *Schouten and Meldrum v. the Netherlands*, judgment of 9 December 1994, Series A no. 304, pp. 28-29, § 78 and *Runkee and White v. the United Kingdom*, cited above, § 57). On the basis of the information in its possession and taking into account that the issues concerning WMA were established in *Willis*, and that most of the

applicant's recurring submissions referred to issues already established in the partial decision of 8 October 2002, the Court awards the applicant EUR 1,350 for legal costs and expenses, in addition to any VAT that may be payable.

D. Default interest

30. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to declare admissible the complaint relating to the applicant's non-entitlement to a Widowed Mother's Allowance as from the date of his second claim for benefits and inadmissible the remainder of the application.
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 Widowed Mother's Allowance;
3. *Holds* that it is not necessary to consider Article 14 in conjunction with Article 8 of the Convention as concerns the applicant's non-entitlement to a Widowed Mother's Allowance;
4. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts to be converted into the national currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 1,200 (one thousand two hundred euros) in respect of pecuniary damage;
 - (ii) EUR 1,350 (one thousand three hundred and fifty euros) in respect of costs and expenses;
 - (iii) any tax that may be chargeable on the above amounts;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 1 April 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Lech Garlicki
President