

IN THE COURT OF APPEAL
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT (BEAN J) CO/4927/2006

Ref: 2007 / 0554

B E T W E E N : -

THE SECRETARY OF STATE FOR WORK AND PENSIONS

Defendant / Appellant

-and-

THE QUEEN
(on the application of
(1) HENRY BRADLEY
(2) ROBIN DUNCAN
(3) ANDREW PARR
(4) THOMAS WAUGH)

Claimants / Appellants

THIRD WITNESS STATEMENT OF
Dr. ROS ALTMANN

I Dr. Ros Altmann of 9 Fairholme Close, London N3 3EE say as follows:-

Introduction

1. I remain involved in this case as an adviser to the four claimants, their lawyers, the Pensions Action Group and many others who have lost some or all of their company pensions on scheme wind-up. I make this additional witness statement in support of the application for expedition. The facts stated below are true and within my personal knowledge save where the context indicates otherwise in which case they are true to the best of my knowledge.

2. As explained in my first and second witness statements in some detail, the claimants are representative of many others, at least 75,000 people, who have lost some or all of their pensions and are not presently being helped in any way by the Defendant to this claim save for the comparatively tiny number that have received Financial Assistance Scheme payments to date. Those payments are, as discussed in my previous statements, a fraction of what they would have received under their company schemes.
3. The response of the Defendant to the Judgement of The Honourable Mr Justice Bean has been a disappointment to them to say the least. Effectively, the Defendant has said that the case raises complex issues that need to be further considered by the Appeal Courts. This in turn raises the spectre of many months more delay before the affected people are treated justly by the Defendant. Meanwhile, they suffer the consequences of the Defendant's unlawful stance on a daily basis. For this reason, expedition was granted in the Court below and is sought again now.
4. Perhaps it may help the consideration of that application if I give some additional examples of the ongoing effects of the Defendant's stance. I hope this will assist the Court to understand just how important it is that this case is resolved soon. All are cases involving people who should be pensioners, but have no pension and so continue to work. They are not being helped by the government, despite its responsibility for what happened to them, a responsibility it continues to deny in these proceedings.

John Brooks

5. John Brooks, now aged 67, did what government asked of him and saved for his retirement in his company pension scheme. He was not highly paid, he earned around £14,000 a year when his company, Early's, closed in 2002.
6. John worked at Early's for 41 years and contributed to the pension for 38 years. He had been concerned about Early's survival and had read the Government pension guides to make sure his pension was really safe. All

the official materials confirmed his understanding that his pension was protected by laws introduced in the 1990's, which would ensure his pension was safe and separate from his employer. There was no indication that his pension might be taken away from him if his employer failed and that he could actually lose his whole company pension - and some of his state pension too - unless he had already started receiving it.

7. In 2002, Early's was in trouble. John and his work colleagues were made redundant with just basic redundancy payments. He was then 62 years old and was offered his scheme pension in February 2002. However, Early's needed someone to help out in the office while it was struggling to survive. Because he loved the company, John offered to help out. The law said he could not draw a pension from the Early's scheme while still working there, so he did not take the pension he was offered. He, of course, had no idea that this choice would mean he would not be at the top of the legal priority order for payments. As a direct result of this, when the company failed in July 2002, he discovered that the scheme would not pay him a pension at all.
8. He has told me that the shock was almost unimaginable. He was relying on his company pension for a decent retirement. He had done everything right. He could have been living on his pension since early 2002, and had studied the Government's official guides to pensions which were full of reassurances of safety without any mention of the risks of wind-up. John is not a financially trained person, he is a loyal worker who just believed what he read. Instead of having his pension, his offer to work in the company's offices for a few months cost him everything.
9. John then went out and found himself work. He would not live on benefits. He worked 4 days a week in a bookmakers. Then, after he turned 65, he discovered he had lost some of his state pension too. The Government was deducting over £20 a week from his state pension because his company scheme contracted out of the national insurance system, leaving him with nothing more than the basic state pension (which is what he receives to this day). So he kept on working, in order to support his wife and try to live the best he could.

10. In July 2005 he was told he had leukaemia. In June 2006 he started a course of chemotherapy and was so affected that he had to cut back to three days a week and then two days a week working. John is now 67, still fighting the leukaemia, still not receiving a penny from his company pension scheme and also not a penny from the Financial Assistance Scheme.
11. The Government says the FAS is helping those who need most urgent help, yet John has had nothing. Of the ten thousand or more people like John, already beyond pension age and struggling without their pensions, only 950 have received a penny from the FAS.
12. John needs his pension now, plainly. Yet for him, in common with many thousands of others, the prospect of his being compensated for his losses depends on the Defendant accepting that he must address and decide what action to take in response to the Ombudsman's recommendations open-mindedly once it has accepted that maladministration took place. That acceptance has yet to materialise, despite the Ombudsman's report, the PASC report and the High Court judgement. It is critical, therefore, that the appeal is heard as quickly as is realistically possible. As he has said to me "I hope the Government give me back my pension before the leukaemia catches up with me".

David Allen

13. John Brooks is far from an isolated example. Another is Dave Allen. He should have retired at age 60 in May 2004, but he is receiving nothing from either the scheme or the FAS and is too ill to work.
14. He joined the Dexion Pension Scheme in 1965, as part of his terms and conditions. He paid in 5% of his salary for 37 years until the scheme closed in 2001. His retirement date was 3 May 2004 (his 60th Birthday).
15. Dave has suffered with a spinal defect condition for many years.
16. In 2001 the condition became so debilitating that he was forced to rest for a period of 6 months. It was his first period of sickness since he had started

work in 1959 at age 15. By April 2002 the condition had eased to a degree that he decided to return to work. He was not fully fit, and an easier option would have been to take early retirement. He knew that Dexion were in financial difficulties, but after reading the Government's pension guides, and identifying no threat to his pension he made the decision to return and help all that he could. This turned out to be the most costly decision of his life.

17. His pension expectation at age 60 was £18,000 pa. Currently at age 62, he receives only £400 p.a. This is via a stakeholder pension which he paid into between 2001, when the Dexion scheme closed and when he was made redundant in 2003. His spinal condition has deteriorated considerably in recent years. He identifies the stress of his pension loss as a contributory factor.
18. Dave's wife is a part time secretary. She has suffered from breast cancer.
19. Last year they had to sell their family home of 27 years, to raise finances on which to budget their modest lifestyle without the pension they were relying on for their retirement. They have had to "downsize" to a smaller property and as a result have had to sell off family heirlooms and lifetime collectibles.
20. Dave describes the very worst thing about their current situation as the uncertainty. The DWP has made no contact with him to confirm any future entitlement under FAS. For now he receives nothing.

Others in the same position

21. Again, I make the point that every such example is typical of many others which I have had contact with directly or in correspondence. Another is Peter Barker. He wrote recently to say that he should have been celebrating his 60th birthday and retirement as of 9th October 2006, instead of which, he has to work full time, in a job which pays very little and which bears no resemblance to his working career, just to make ends meet. He cannot even consider working part time as he needs all the financial help just to survive.

He saved for 26 years. He will not receive any money from his company scheme or from the Financial Assistance Scheme for another 5 years.

22. Another correspondent, Brian Clark, is 62 years old and worked at Dexion for 34 years, paying into the pension fund from the very start as it was a condition of employment that he had to join. He was a loyal employee, often working seven days a week, 12-hour shifts, but he firmly believed it would be worthwhile in the end when he finally retired and could do the things he and his wife were looking forward to. Suddenly, in 2003, Dexion failed and he lost his job, but the worst was that he learned his entire pension was gone. The shock of this caused enormous distress to Brian and his wife and in December 2005 his wife suddenly died, as a result of hypertension, caused by stress and worry. At the time, his wife was the main breadwinner and he is now struggling on his own with no pension, even though he should already be retired. He found work, stacking supermarket shelves but this was physically too demanding. He has just had major back surgery for compressed discs suffered whilst working at Tesco's and is currently unable to work. He is not entitled to any money from the Government's Financial Assistance Scheme for another 3 years.

23. These are simply the examples that immediately spring to mind. There are so many others.

24. Of course, I accept that the ultimate decision on what happens to these people will be a political one. But as long as the Secretary of State disputes that maladministration did not occur in this legal case, the legal dispute has a direct bearing on the resolution of that political question. It is imperative, therefore, that the case is resolved quickly.

The contents of this witness statement are true.

Signed.....

Dr. Ros Altmann

Date.....

