

Civil Service Conciliation and Arbitration Scheme

General Council Report 1290

(Meeting/s of 30 November 1994, 25 January 1995, 22 February 1995, 29 March 1995)

Claim that all job-sharing officers be paid for all public holidays since 6th April 1991 and in the future.

1. The Staff Side said that since the introduction of the Worker Protection (Regular Part-time Employees) Act, 1991 the right to public holidays for those who work less than the full recognised working week had been established. All such employees were now entitled to "a normal days pay" for each public holiday. Moreover, regular part-time workers were entitled to any public holiday (no matter how soon it occurred after the minimum period of 13 weeks continuous service) whether or not they were scheduled to work that specific day. The Staff Side pointed out that under the current job-sharing scheme in the civil service, job-sharing staff receive only a *pro rata* entitlement to public holidays. This arrangement was not consistent with the legal provisions applicable to part-time employees outside the civil service (i.e., the provisions of the Holidays (Employees) Act 1973 and the Worker Protection (Regular Part-time Employees) Act, 1991 and the civil service would, at minimum, be expected to parallel the legal norm. The Staff Side accepted that arrangements providing for minimum rights could give rise to some anomalies and they also pointed out that their views on the claim had been endorsed by the Labour Court in its Recommendation No. 14307.

2. The Official Side suggested that there was no difficulty with the existing arrangements for job-sharing staff who followed a half day on/half day off attendance regime and said that the claim seemed, therefore, to refer only to job-sharing staff who worked some other form of attendance regime, such as day on/day off, week on/week off, etc. The Staff Side confirmed that this was the position and also confirmed, at the request of the Official Side, that this claim referred only to the statutory public holidays. The Staff Side, however, said that the same logic could be equally applied to privilege days.

3. The Official Side said that the existing arrangements in relation to public holidays for job-sharing staff were set out in Circular 3/84. They considered that these arrangements ensured equitable treatment of officers within the job-sharing category, and between job-sharing and full-time staff. They pointed out that the terms "a paid day off" and "an extra day's pay" were not defined in the Holidays

(Employees) Act, 1973. Indeed a discussion document which had been published by the Department of Enterprise & Employment had specifically referred to this issue in the following terms:

"The atypical nature of part-time working has highlighted the difficulty of such lack of definition and differing views have arisen, therefore, as to the calculation of public holiday entitlement. The Department recognises the importance of ensuring that the payment arrangements in respect of public holidays are provided for clearly and unambiguously in the legislation and is committed to resolving this issue when revising the legislation."

4. The Official Side said that having regard to the differing views which existed in relation to the legislative provisions, the fact that these were under review at present and the fact that concession of the claim would clearly lead to anomalies between different groups of staff (including anomalies between different job-sharing staff), it was not prepared to concede the claim.

5. The Staff Side added that the effect of the decision to refuse to concede the claim was confined solely to job-sharers who were predominantly female. The 1993 Annual Report on Equal Opportunities in the Civil Service indicated that 98% of job-sharers were female. In the circumstances the Staff Side believed that the rejection of the claim amounted to discrimination against job-sharers by reference to the Employment Equality and Equal Pay legislation. They would now have to consider seeking redress in that context.

6. The Official Side pointed out that the civil service job-sharing scheme was available to all officers irrespective of gender. The fact that the majority of officers who chose to avail of the scheme were women was irrelevant in the context of the claim from the Staff Side. The arrangements for paying all job-sharing officers encompassed by the Staff Sides's claim in respect of public holidays were identical as between male and female job sharing officers.

7. The Staff Side asked that disagreement be recorded on the claim.

8. This report recording disagreement was adopted on 29 March 1995.

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