

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
(CROWN OFFICE LIST)

No: PA/0019/93

Royal Courts of Justice
Strand
London WC2

Friday 12th November 1993

Before:

MR JUSTICE DRAKE

NORMAN GEORGE HANCOCK

-v-

THE SECRETARY OF STATE FOR SOCIAL SECURITY

JUDGMENT

MR JUSTICE DRAKE: I will formally state very briefly why I have taken the view I have.

The Tribunal decided that the otitis media right could not be attributable to service because it was a condition which existed on entry into service. It is clear that they relied, originally, on an entry referring to the condition on enlistment and also to two later entries in 1942 and 1943 which stated that Mr Hancock had suffered the ear complaint since childhood. It was later found that the entry on enlistment had been put in at a later date, no one knows who by or when or for what reason.

The matter was remitted to the Tribunal who, again, on consideration of all the matters, decided to disallow the appeal. It is clear that although they ceased to have regard to the entry relating to the condition on enlistment, they did give effect to the later entries in the medical records referring to a condition since childhood.

In my judgment, once the medical records had been shown to have been interfered with for some reason unknown by inserting the 1939 entry at some later date, the medical records could not, thereafter, be relied on to overcome the evidence of Mr Hancock himself, that he had never suffered this complaint in childhood or at any time before entering service.

Were the matter to be remitted to the Tribunal, then whatever happened, it would remain my view that they could not reasonably disregard the evidence of a witness who has been proved on one very material respect to have been correct. That is regarding the entry in 1939. I do not think that they could conceivably overcome his evidence because of other entries in the medical records

which are not the subject of oral evidence stating why they were there. For that reason, it seemed to me right in this case, to allow the appeal. As has already been stated, other possible appeals by Mr Hancock have been abandoned and are not proceeded with. Therefore, this will now dispose of the matter.