

**HIGH COURT OF JUSTICE**

**KING'S BENCH DIVISION**

**(Denning, J.)**

**6<sup>th</sup> April, 1948**

**ROYSTON v. THE MINISTER OF PENSIONS**

**JUDGMENT**

MR. JUSTICE DENNING: - In this case, Elizabeth Royston was called up in the A.T.S. in November, 1939 at the age of 47 years. She left in September, 1940, on purely compassionate grounds; she was frail and not really able to do her work. Then, four years later she put in a claim for a pension. She said she had had an injury to her spine in 1939, which she reported and went into hospital for it. The records have been searched but contain no entry of any such injury or of any time in hospital for it. There is nothing whatever to bear out the view that there was an injury at all to her at that time. After investigations were made and nothing whatever to support her story was found, and after hearing her, the Tribunal thought that she was quite wrong in her claim. There had been no such injury at all.

The question on which I give leave to appeal is, whether the Tribunal were right in holding that there was an onus on her to show some disablement. I am quite satisfied that there is an onus on a claimant to show a disablement. Once she shows a disablement, there is afterwards no onus on her to prove the fulfilment of the conditions under Article 4 of the Warrant, and the benefit of any reasonable doubt has got to be given to her. That is provided by Sub-section 2 of Article 4; but Sub-section 2 does not come into operation until she first shows a disablement, and "disablement" is defined as "a physical or mental injury or damage or loss of physical or mental capacity". I think the Tribunal were quite right in saying that the onus of proving a disablement was upon her and they were quite satisfied that she had not discharged that onus. Indeed, they were satisfied that there was no injury at all such as she alleged. In these circumstances, the appeal is dismissed.