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IN HIS MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

ON APPEAL FROM THE KINGS BENCH DIVISION (JUDICIAL REVIEW)

IN THE MATTER OF AN APPLICATION BY THOMAS McMANUS FOR LEAVE TO APPLY FOR JUDICIAL REVIEW OF DECISIONS OF THE COURT OF JUDICATURE IN NORTHERN IRELAND

Mr McManus appeared as an unrepresented litigant
Mr Ben Thompson (instructed by the Departmental Solicitor's Office) for the Court of Judicature

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Before: Keegan LCJ and McCloskey LJ

KEEGAN LCJ (*delivering the judgment of the court ex-tempore*)

Introduction

[1] This is an appeal from a decision of Mr Justice Scoffield ("the judge") of 21 May 2024 reported at [2024] NIKB 39 whereby he dismissed the applicant's application for leave to apply for judicial review. The judge provided a comprehensive written judgment setting out his reasons for dismissing the application. The grounds of appeal to this court are attached to the notice of appeal which we have received which is dated 20 June 2024.

The judgment at first instance

[2] In his reserved judgment the judge deals with the issues in the following way. First, he records that the primary intended target of the challenge is the decision of Mr Justice McAlinden who dealt with Mr McManus' claim for personal injuries. Mr McManus has confirmed that that is such in this court. That decision was affirmed by the Court of Appeal.

[3] In his judgment the judge finds that the core of the issue is the fact that Mr McManus remains dissatisfied with the award of damages to him and raises perceived unfairness in relation to the court's assessment of damages at first instance.

[4] The second aspect of the judgment that we point to is that the judge expressly records at para [9] of his judgment that he initially expressed the provisional view that judicial review was not an applicable remedy. He did that in advance of the hearing and, again, at the hearing as he says at para [10] of his judgment. The reason for that is simply stated: judicial review cannot be utilised to challenge the decisions of judges of the superior courts in Northern Ireland.

[5] The third aspect of the judgment that we highlight is from paras [13]-[19]. There the judge deals comprehensively with the jurisdictional issue that we have just mentioned. Specifically, he refers at para [15] to legal text in relation to this and other legal authority. The judge concludes at para [16] that the High Court's lack of jurisdiction is a complete answer to the applicant's attempt to use the judicial review procedure to re-open a decision of the High Court awarding damages in a writ action and/or a decision of the Court of Appeal against any such award.

[6] Finally, in further observations at para [26] of his judgment, the judge also refers the applicant to appeal routes to the Supreme Court on a point of law from the Court of Appeal, if a point of law of general importance arises. In addition, the judge referred in this part of his judgment to the fact that if the applicant wished to complain against a judicial office holder, he has a right to do so via the office of the Lady Chief Justice.

[7] We pause at this point to record that the trial judge has clearly expended a considerable amount of time and effort in compiling a comprehensive judgment in this case.

This appeal

[8] In terms of this appeal to the Court of Appeal, we have read the appeal notice. We also have a letter of 26 August 2024 from Mr McManus. He has provided various documents to the court, all of which relate to his personal injury claim by way of medical and accountancy references, and he has made submissions to this court which focus upon his personal injuries claim and what he perceives is an error on the part of the first instance court in relation to that.

[9] Mr McManus is clearly dissatisfied with the damages that were awarded to him. As we have already indicated, he has availed of his right of appeal to the Court of Appeal who affirmed the first instance decision in an *ex-tempore* ruling given by Lord Justice Horner. It follows that there is no basis for the argument that the applicant was denied a fair trial in relation to his damages claim in the civil forum. He had the benefit of a hearing before the High Court and a hearing before the Court of Appeal and, as we have already said, he was advised that he could apply to the latter court to certify a point of law of general importance if he so wished.

[10] As the judge stated, judicial review is not an available remedy against a High Court or a Court of Appeal decision. There comes a point where the outcome of

litigation simply has to be taken as finally settled. Mr Justice Scoffield expressed this sentiment in terms that we cannot improve on when at para [29] of his judgment he said:

> "[29] There comes a point where the outcome of litigation simply has to be taken as finally settled. Subject to any outstanding issues which remain to be determined in the appeal proceedings (insofar as they are extant) and the possibility of further appeal, the point has now been reached in relation to the applicant's claim for damages against the Mart Company."

[11] We are sorry that Mr McManus remains dissatisfied with the outcome of the civil proceedings. However, we find that the first court was entirely correct to make the assessment that it did. We also, for clarity's sake, reiterate the law in relation to jurisdiction which is set out in the written argument that we have received from Mr Thompson and as already set out by the trial judge.

[12] There is a particular portion of a decision which we follow and that has been put before us from a case that was heard before this Court of Appeal in *McDaid's (John) Application* [2016] NICA 5. The ruling of Lord Justice Gillen in that case at para [17] recites the well-established and well-known law in this area as follows:

> "[17] We have come to the conclusion that the applicant's appeal must be dismissed for the following reasons. First, it is trite law to state that certain of the superior courts, including the Supreme Court, the Court of Appeal and the High Court are immune from judicial review when these courts make decisions taken in the exercise of their jurisdiction as superior courts. The principle is so well established that it is sufficient for this court to cite *Re Racal Communications* [1981] AC 374 per Lord Diplock and Lord Scarman, *Monteith's (John) Application (Leave Stage)* [2011] NIQB 18, *Re Rice's Application for Judicial Review* [1998] NI 265 and *Re Weir and Higgins Application* [1988] NI 338 as clear authority for the proposition."

Conclusion

[13] Accordingly, this court, having considered the application before us dismisses the appeal and affirms the decision of the trial judge at first instance, who refused leave to apply for judicial review on the basis of a lack of jurisdiction.