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Judgment: approved by the Court for handing down
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IN HER MAJESTY'S COURT OF APPEAL IN NORTHERN IRELAND

BETWEEN:

MARIAN QUINN

Appellant

and

DEPARTMENT FOR SOCIAL DEVELOPMENT

Respondent

Before Kerr LCJ, Nicholson LJ and Campbell LJ

KERR LCJ

Introduction

[1] This is an appeal by way of case stated from a decision of a Social Security Commissioner. The appellant had been refused disability living allowance (DLA) by a social security tribunal and appealed to the Commissioner on a number of grounds. The appeal was dismissed on 20 March 2003.

[2] The opinion of this court is sought on three questions: -

> 1. Was the Commissioner correct in law in holding that the Tribunal's view of and conclusions on the evidence were not legally perverse?
>
> 2. Was the Commissioner correct in not dealing specifically in her decision with an issue, which

> had not been raised as a ground of appeal, *i.e.* that the Tribunal had not commented on the first Examining Medical Practitioner's report? [This was a report that had been furnished in relation to a previous application for disability living allowance]
>
> 3. Was the Commissioner correct in law in holding that the Tribunal had given sufficient reasons for its decision?

General background

[3] DLA is a non-contributory benefit paid to persons who are so severely disabled that they need assistance to lead a normal life, or are so severely disabled that they are unable or virtually unable to walk. The benefit has two components – the care component and the mobility component. For both components there is a qualifying period of three months and the disability must be one that is likely to continue for at least six months. Where a person applies for DLA he or she makes application on a form DLA 580 and is examined by an examining medical practitioner (EMP).

[4] The appellant submitted the necessary form on 11 October 1999. This contained wide-ranging complaints about generalised disability. She complained about severe anxiety and depression. She claimed to have very limited movement because of severe back pain that extended into the shoulders, neck and legs. This was so bad, the appellant declared, that if she walked even a short distance she was incapable of further movement. She was not able to use a stick because of severe pain in her shoulders. She needed someone to support her while walking even short distances. She required help to get in and out of a car. Even rising from a seat caused excruciating pain and help for this was also indispensable. She claimed that she stumbled several times a day and that if she did not have someone constantly beside her she would fall frequently. She needed help to get in and out of bed. During the night when she awoke in discomfort she required assistance to regain a comfortable position. She needed help to go to the lavatory during the day and night. The appellant also maintained that she was partially sighted.

[5] The EMP in the present case was Dr P W McGucken and he examined the appellant on 30 November 1999. The appellant told him that she normally had two people to help her walk. She was afraid to go outdoors and never went outside, therefore. She said that two friends helped her to get out of bed and to dress. She was 'unable to move [her] limbs'. She claimed to be incontinent. Her friends cooked for her, cut up her food and fed her. She had 'constant terrible pain' all over her back and legs.

[6] The doctor found the appellant at home with a friend. She had bizarre trembling movements of the arms and occasionally the legs. Her legs were well muscled and shaven and no arthritis was detected. Both knees were heavily callused and both feet were at least moderately so. Dr McGucken considered that she had full function in all her limbs. He considered that there was no evidence of neurological deficit. The appellant was, in his estimation, 'safely mobile throughout her own home'. Indeed he felt that she was probably able to walk for unlimited distances at a normal pace without halting and unaided. She had no mobility needs in the view of Dr McGucken. In fact he did not consider that she had any disability. The final section of his report contained the following passage: -

> "She claims that a mixture of very severe anxiety and severe joint pains means that she needs the help of two people all the time. Management of her condition is consistent with only mild problems. She had had all her medication renewed recently and in the one she didn't renew she had removed the date on the box thus stopping me verifying her use of medication. Despite needing the help of two people she lives ALONE. She claims 'friends' never leave the home by day or night yet when I arrived there was only one lady. When I asked her to verify what was going on she declined saying that she hardly knew Miss Quinn! Examination is consistent with either gross exaggeration or psychosomatic symptoms and signs/mental illness. Informally observations reveal no obvious joint problems and the fact that she is well muscled, knees are heavily callused suggests that she is independently mobile a great deal – *i.e.* she was exaggerating."

[7] The appellant had been awarded DLA for a period of two years from 3 November 1997 until 2 November 1999. She then applied for a renewal of her award with effect from 3 November 1999. It was this application that prompted the examination by Dr McGucken. An oral hearing before an appeal tribunal was convened for 18 October 2000. This had to be adjourned apparently because the appellant was "unable to settle in [the] hearing". According to the chairman's note she presented as being very anxious, walking very slowly and hyperventilating. She stated that she wanted to go home as she was afraid that the car (presumably the car in which she had come to the hearing) would leave without her.

[8] In adjourning the hearing the Tribunal directed that a report be obtained from a psychiatrist. It gave the following instruction as to what the report should contain: -

> "We should like the report to diagnose appellant's mental problems, if any. If appellant has mental problems please advise to what extent and whether they would affect her ability to look after herself, that is, as regards washing, dressing, getting in and out of the bath and bed, using stairs, preparing a main meal for herself and so forth. Please advise of limitations. Could appellant go outdoors without guidance/supervision on familiar/ unfamiliar routes?"

[9] Dr Patrick Manley, consultant psychiatrist, examined the appellant on 18 July 2001. He had been provided with the application form completed by the appellant, the documentation generated by the aborted hearing on 18 October 2000 and letters from the appellant's general practitioner outlining her current mental health difficulties. The first letter was dated 28 January 2000. It is difficult to decipher but appears to have been written by Dr O'Loughlin. Such parts as can be read are as follows: -

> "This lady has a history of depression and anxiety. She is on Prozac for 3 to 4 years. She has difficulty with her mood swings and finds it difficult to cope on her own. She also has back pain … She had surgery for complete … of the womb … her back pain has got worse since the surgery. She is partially sighted also. She has had falls in the past. I feel that she needs constant company as she finds being alone very difficult."

[10] The second letter was written by the other general practitioner, Dr Garland. It is dated 6 October 2000. So far as can be deciphered it reads: -

> "This 52 year old lady suffers from –
> - anxiety and depression
> - agoraphobia/panic attacks
> - marked anxiety state
>
> Has difficulty coping with … and basic activities of daily living.
> Low back pain recently aggravated by abdominal hysterectomy for cystic …
> Partially sighted.

> I feel that this lady's application for DLA merits careful consideration"

[11] Having conducted a psychiatric examination of the appellant, Dr Manley gave the following opinion: -

> "Miss Quinn is suffering from a severe generalised anxiety disorder (ICD-10: F41.2) which is also associated with episodic panic attacks. She also describes agoraphobia and social phobia. Symptoms have changed little in recent years. At present she has major difficulties with self-care, requiring assistance with dressing, bathing, mobility and preparation of meals. She is currently unable to go outdoors without close supervision. She describes nocturnal enuresis which requires her to go to the toilet 2 – 3 times per night with the assistance of carers. It is unclear on the basis of my assessment today whether or not physical factors also play a role in her current difficulties.
>
> Therapies to date have focused only on medication. I would suggest that an assessment by local psychiatric services might be helpful although, with the chronicity of her symptoms, prognosis must be guarded."

The proceedings before the Tribunal

[12] The appellant was represented by a Mr McLarnon before the Tribunal. The notes of these proceedings are rather less than full and it is by no means clear which of the notes refer to submissions made by Mr McLarnon and which contain observations of the Tribunal. For the sake of clarity it would be preferable if the submissions made on behalf of a claimant were clearly identified as such and distinguished from observations that tribunal members made in the course of the hearing. So far as one can ascertain, Mr McLarnon submitted that there had been no improvement in the appellant's condition from the time that she had been examined in respect of the award made in 1997. It is not clear whether the report of this examination was before the Tribunal. It does not feature in the list of documents that is said to have been considered by the Tribunal. In any event, the report of the EMP on the earlier examination in 1997 cannot now be found.

[13] The Tribunal gave its reasons for refusing the appellant's application for DLA in the following way: -

> “Appellant exaggerates her complaints. She has full function upper arm, lower limbs and can attend to her bodily functions unaided and unsupervised day and night. She can cook a main meal for herself and has no mobility needs. Dr Manley’s report is not particularly helpful, being mainly history and vague clinical findings. Examining medical practitioner’s report full and summary based on objective physical findings.”

The proceedings before the Commissioner

[14] The basis of the appeal to the Commissioner was that the Tribunal, having commissioned a report from a psychiatrist, should not have dismissed Dr Manley’s opinion so readily. ‘Very significant weight’ should have been attached to Dr Manley’s objective clinical findings that the appellant was very anxious and that the prognosis for her condition was guarded. The EMP’s report should not have been preferred to that of Dr Manley.

[15] The Commissioner approached the appeal on the basis that she could only disturb the Tribunal’s findings of fact if she concluded that the weight that the Tribunal had attached to any particular item of evidence was so disproportionate that no reasonable Tribunal could have made the finding that the Tribunal had, in reliance on that particular testimony. The only objective statements that the Commissioner was able to identify in Dr Manley’s report were his reference to the appellant’s anxiety and her shuffling gait on entering the examination room; and the ‘clinical impression’ that Dr Manley had that the appellant was suffering from severe generalised anxiety disorder. She decided, therefore, that the Tribunal was entitled to rely on the EMP’s report and that that report had given very detailed reasons for its conclusions. She considered that the Tribunal’s reliance on this report and its evaluation of Dr Manley’s report lay within the range of responses to the evidence that was open to it and dismissed the appeal. Although the question of the adequacy of the reasons given for the finding had not been raised before the Commissioner, she offered her opinion that these had been sufficiently expressed.

The arguments on the appeal

[16] For the appellant, Mr Larkin QC argued that the Tribunal had in effect ignored the report of Dr Manley. It is clear, he said, that the legislation authorised the payment of DLA where the claimant suffered from a mental condition that made it impossible for her to carry out the specified activities unaided. Dr Manley had expressed the opinion that the appellant suffered from generalised anxiety disorder, the effects of which may entitle her to

DLA. The Tribunal had wrongly rejected Dr Manley's opinion on the basis that it was vague but there was no contradictory evidence from the EMP report on the *mental condition of the appellant.* Indeed, said Mr Larkin, the two reports were not oppositional on the question of the appellant's mental condition in that the EMP report accepted as a possibility that the findings on examination were consistent with 'psychosomatic symptoms and signs/mental illness'. The Tribunal had concluded, Mr Larkin contended, that the appellant did not have a mental condition and this was not a conclusion that was available to them on the evidence. The decision to reject the appellant's claim for DLA was therefore perverse.

[17] Mr Larkin raised a point that had not been argued before the Commissioner. It was to the effect that the Tribunal had failed to give any consideration to the first EMP report. Since the appellant had been awarded DLA by the first Tribunal and the medical evidence suggested that there had been no improvement in her condition the Tribunal ought to have taken account of the EMP report in relation to the first application. In turn the Commissioner should have recognised that the Tribunal had failed to have regard to the first report and ought to have reversed the Tribunal's decision on that account.

[18] Finally Mr Larkin argued that the reasons given by the Tribunal for its decision were inadequate. There is a statutory duty on Social Security Appeal Tribunals to give reasons for their decisions: regulation 53 of the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999 (SR 162/1999). The Tribunal had failed to explain why it had preferred the evidence of the second EMP to the evidence of Dr Manley and the GPs in respect of the appellant's condition; or, if it did not prefer the EMP's evidence, why it did not consider the effects of the mental condition to be such as to permit the appellant to qualify for the benefit. It had further failed to explain why it had concluded that the appellant no longer qualified for the benefit if her condition had not improved from that set out in the first EMP's report; or if it concluded that the appellant's condition had improved, on what basis it made that finding. It was submitted therefore that the Commissioner should have found that the reasons given by the Tribunal were inadequate and did not fulfil the requirements of regulation 53.

[19] For the respondent Mr Hanna QC submitted that the Tribunal had not ignored the evidence of Dr Manley. It had merely found his report not to be particularly helpful. In order that DLA be payable the Tribunal had to be satisfied that during the relevant period the appellant was severely disabled and the EMP report provided unequivocal evidence that she was not.

[20] The issue of the first EMP report had not been raised by the appellant in her appeal before the Commissioner. Mr Hanna argued that she was not bound to address this issue unless it was obvious. The first EMP report

would have been of limited relevance because the Tribunal was required to decide on the current level of the appellant's incapacity. Even if the first EMP report suggested a significant level of incapacity it is unlikely to have offset the unequivocal findings of Dr McGucken.

[21] Mr Hanna submitted that the Tribunal's reasons for disallowing the appellant's DLA claim were sufficiently clear from the text of the decision. It was evident that the Tribunal had accepted the view of Dr McGucken that the appellant was not severely disabled. It did not have to engage in an elaborate process of reasoning in order to justify those conclusions.

The relevant statutory provisions

[22] Section 71 (1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 provides that disability living allowance shall consist of a care component and a mobility component. The care component is dealt with in section 72. Subsection (1) of this section provides: -

> "**72.**—(1) Subject to the provisions of this Act, a person shall be entitled to the care component of a disability living allowance for any period throughout which—
>
> (a) he is so severely disabled (physically or mentally) that—
>
> (i) he requires in connection with his bodily functions attention from another person for a significant portion of the day (whether during a single period or a number of periods); or
>
> (ii) he cannot prepare a cooked main meal for himself if he has the ingredients;
>
> (b) he is so severely disabled physically or mentally that, by day, he requires from another person—
>
> (i) frequent attention throughout the day in connection with his bodily functions; or
>
> (ii) continual supervision throughout the day in order to avoid substantial danger to himself or others; or

> (c) he is so severely disabled physically or mentally that, at night,—
>
> > (i) he requires from another person prolonged or repeated attention in connection with his bodily functions; or
> >
> > (ii) in order to avoid substantial danger to himself or others he requires another person to be awake for a prolonged period or at frequent intervals for the purpose of watching over him.

[23] Thus the qualifying condition in each of the circumstances specified is that the candidate for DLA is 'so severely disabled' that the stipulated consequences arise.

[24] Section 72 (1) deals with the period during which the disability must have endured and be likely to persist in order that DLA should be payable. It provides: -

> "(2) Subject to the following provisions of this section, a person shall not be entitled to the care component of a disability living allowance unless—
>
> > (a) throughout—
> >
> > > (i) the period of 3 months immediately preceding the date on which the award of that component would begin; or
> > >
> > > (ii) such other period of 3 months as may be prescribed,
>
> he has satisfied or is likely to satisfy one or other of the conditions mentioned in subsection (1)(a) to (c) above; and
>
> > (b) he is likely to continue to satisfy one or other of those conditions throughout—
> >
> > (i) the period of 6 months beginning with that date; or

(ii) (if his death is expected within the period of 6 months beginning with that date) the period so beginning and ending with his death."

[25] An applicant for DLA must therefore show that he or she has suffered from the severe disability that brought about the level of incapacity necessary to satisfy the requirements of subsection (1) for at least three months before the benefit would be payable and is likely to suffer that degree of incapacity for at least six months thereafter.

[26] Section 73 deals with the mobility component of DLA. The material provisions are: -

> "**73.**—(1) Subject to the provisions of this Act, a person shall be entitled to the mobility component of a disability living allowance for any period in which he is over the age of 5 and throughout which—
>
> (a) he is suffering from physical disablement such that he is either unable to walk or virtually unable to do so;
>
> (b) he falls within subsection (2) below;
>
> (c) he falls within subsection (3) below; or
>
> (d) he is able to walk but is so severely disabled physically or mentally that, disregarding any ability he may have to use routes which are familiar to him on his own, he cannot take advantage of the faculty out of doors without guidance or supervision from another person most of the time.
>
> (2) A person falls within this subsection if—
>
> (a) he is both blind and deaf; and
>
> (b) he satisfies such other conditions as may be prescribed.
>
> (3) A person falls within this subsection if—
>
> (a) he is severely mentally impaired; and

> (b) he displays severe behavioural problems; and
>
> (c) he satisfies both the conditions mentioned in section 72(1)(b) and (c) above."

[27] Again the qualifying condition is that the claimant for DLA must be either suffering from physical disablement so that he is unable or virtually unable to walk or, where he is able to walk, is so severely disabled physically or mentally that he cannot make use of that faculty unsupervised. The section again prescribes the conditions that may give rise to such a level of disability but the anterior question that must be affirmatively answered for the possibility of benefit entitlement to arise is that there be a disability to the extent stipulated. Section 73 (9) contains similar provisions as to the duration of the disability as are found in section 72 (2).

The perversity argument

[28] This was founded principally on the avowed failure of the Tribunal to have regard to Dr Manley's report and its erroneous conclusion (in the words of Mr Larkin) that the appellant did not suffer from a mental condition.

[29] It is clear that the Tribunal considered Dr Manley's report since they refer to it in their findings and describe it as being less than helpful. The challenge to the Tribunal's attitude to the report cannot proceed on the basis that they ignored it; rather it must be either that they misconstrued it or they failed to give it sufficient weight. As to the latter of these two possibilities it is of course to be remembered that a view of the facts reached by a tribunal can only be interfered with by the Court of Appeal in limited and well-defined circumstances. Carswell LCJ described those circumstances in *Chief Constable of the RUC v Sergeant A* [2000] NI 261 at 273f as follows: -

> "A tribunal is entitled to draw its own inferences and reach its own conclusions, and however profoundly the appellate court may disagree with its view of the facts it will not upset its conclusions unless—
>
> (a) there is no or no sufficient evidence to found them, which may occur when the inference or conclusion is based not on any facts but on speculation by the tribunal (*Fire Brigades Union v Fraser* [1998] IRLR 697 at 699, per Lord Sutherland); or

> (b) the primary facts do not justify the inference or conclusion drawn but lead irresistibly to the opposite conclusion, so that the conclusion reached may be regarded as perverse: *Edwards (Inspector of Taxes) v Bairstow* [1956] AC 14, per Viscount Simonds at 29 and Lord Radcliffe at 36."

[30] The opinion that Dr Manley's report consisted 'mainly of history and vague clinical findings', was, in our judgment, a clearly tenable view. Much of the report is taken up with a recitation of the appellant's complaints. Even those sections entitled 'Mental State Examination' and 'Clinical Impression' were largely preoccupied with what the appellant had told the doctor about her complaints. Apart from the statement that the appellant was suffering from a generalised anxiety disorder, the report contains little in the way of clinical findings and expresses uncertainty as to whether physical factors played any part in her current difficulties.

[31] Mr Larkin's criticism of the Tribunal's conclusion that the report was unhelpful proceeded on the basis that they had failed to understand that Dr Manley had identified the appellant's mental condition and concluded, in effect, that she did not suffer from such a condition. In the first place, the Tribunal did not state that it had found that the appellant did not suffer from a mental condition. Secondly, and more importantly, it is clear that the Tribunal's comment that Dr Manley's report was not particularly helpful was made in relation to the critical issue of the level of the appellant's disability. As we have pointed out above, the anterior question of the severity of the disability must be addressed before an examination of the causes of the disability becomes relevant. If the claimant does not suffer the degree of disability to trigger entitlement to the benefit, the debate as to the cause of her complaint does not begin.

[32] We consider it to be clear that the Tribunal concluded that the report was unhelpful because it did not address the fundamental question of the extent of the disability. The EMP report, by contrast, dealt with that issue directly and expressed the firm conclusion that the appellant simply did not have the degree of disability that had to be present before possible eligibility to benefit would arise. We are satisfied that the Tribunal's decision was not perverse and consequently we answer the first question posed in the case stated in the affirmative.

The first EMP report

[33] In *R (Begum) v Social Security Commissioners* [2002] EWHC 401 (Admin) the applicant challenged the decision of a Special Security Commissioner who had refused her permission to appeal against the decision of the Social

Security Disability Appeal Tribunal. One of the issues that Scott Baker J had to decide was the proper approach to apply when judicial review was sought where the Commissioner refused leave to appeal and the applicant subsequently raised alleged errors of law not included in the grounds of appeal to the Commissioner. At paragraph 20 Scott Baker J said: -

> "20. The position is that mere arguability is not the test, a higher hurdle must be surmounted. The point must be obvious; that is one which would have a strong prospect of success were leave to be granted. An obvious point, it seems to me, is one that stands out and not one that can only be gleaned by a paper chase through various documents which may underlie the decision maker's decision."

[34] Mr Hanna argued that the alleged failure of the Tribunal to consider the first EMP report was not a point that would have been obvious to the Commissioner and that she cannot therefore be faulted for having failed to unearth it. We accept this argument. It would be quite unrealistic to expect the Commissioner to disinter an argument such as this from the relative obscurity whence it eventually emerged. In any event it is by no means clear that the Tribunal did in fact disregard the first EMP report. It is recorded that Mr McLarnon, the appellant's representative before the Tribunal, raised the matter and, while the Tribunal does not refer expressly to the first report in its decision, it is by no means clear that it did not take it into account. If anything, the reference to the report in the Tribunal's papers would suggest otherwise.

[35] The ultimate disposal of this argument, however, is provided by the consideration that the first report could not have made any difference to the outcome of the appeal to the Tribunal. The second request for DLA was a renewal application. Each application must be treated anew. The reason for this is clear. The claimant for DLA must establish a level of disability at the time the application is made and for a period of six months after the benefit becomes payable. It would avail the appellant nothing to show that in November 1997 she was considered to be sufficiently disabled to be entitled to the benefit. She must show a contemporaneous disability of such severity that she was entitled to the benefit at the time of application and beyond.

[36] For all the above reasons but particularly the last mentioned we have concluded that we must answer the second question posed in the case stated in the affirmative also.

Reasons

[37] To the first of Mr Larkin's submissions on this topic, *viz* that the Tribunal had failed to explain why it had preferred the evidence of the second EMP to the evidence of Dr Manley and the GPs, there is a ready answer. The Tribunal was examining the medical evidence for what light it could shed on the issue of the extent of the appellant's disability. Neither Dr Manley nor the GPs addressed that question directly in their reports. It was not necessary therefore for the Tribunal to pit the opinions of the various doctors against each other. The report of the EMP contained the only directly relevant material on that matter. The Tribunal acted on that report as it was entitled to for the reasons we have given earlier.

[38] Mr Larkin's second argument on the giving of reasons was that the Tribunal had failed to explain why it did not consider the effects of the mental condition to be such as to permit the appellant to qualify for the benefit. Again this argument misses the point that the Tribunal was concerned with the actual level of disability of the appellant rather than an examination of its causes. In other words, it was assessing whether the appellant was as disabled as she claimed she was, not what might have caused her disability. In our judgment it was not necessary for the Tribunal to explain why it did not consider that the effects of the mental condition would 'permit the appellant to qualify for the benefit' because it had concluded that the level of disability was not sufficiently great to make her eligible.

[39] The final argument on this subject was that the Tribunal had failed to explain why it had concluded that the appellant no longer qualified for the benefit if her condition had not improved from that set out in the first EMP's report; or if it concluded that the appellant's condition had improved, on what basis it made that finding.

[40] The requirement to give reasons where a Tribunal decides that a claimant for benefit is no longer entitled to a benefit of which he or she had been in receipt previously was considered by the Social Security Commissioner in *R (M) 1-96* CM/20/1994. In that case the claimant had lost part of his right leg in an accident and had arthritis in his left hip and spine. His renewal claim for mobility allowance in 1992 was rejected on the ground that he was neither unable, nor virtually unable, to walk. The claimant contended that his walking ability had in fact got worse since he was originally awarded mobility allowance in 1991. A disability appeal tribunal confirmed the rejection of his claim. The claimant appealed to a Social Security Commissioner. It was held that the fact of a previous award does not raise any presumption in the claimant's favour or result in the need for consistency having to be treated as a separate issue on a renewal claim. However, the requirement for a tribunal to give reasons for its decision means that it is necessary for a tribunal to explain why it is not renewing a previous award unless this is obvious from its findings.

[41] We agree with this reasoning and intend to apply it to the present case. Here the Tribunal has not explained why it is not following the course previously taken in making an award of DLA but, in our view, there was no need to do so. The reason that the Tribunal refused DLA was that it had concluded that the appellant did not suffer from the level of disability that had to be present before the benefit was payable. As the Court of Appeal said in *Evans, Kitchen and Others v. Secretary of State*, [now reported as *R (I) 5/94*] a previous award carries no entitlement to preferential treatment on a renewal claim for a continuing condition. In the *R (M) 1-96* case the Social Security Commissioner put the point in this way: -

> "… on a renewal claim, which is a fresh claim for benefit for a period not covered by any previous award, there can be no question of the tribunal being bound to follow any previous decision awarding benefit for an earlier period, nor, in determining whether the conditions for benefit are satisfied on the facts as they find them to be at the date relevant for their decision, is any different standard to be applied according to whether benefit has or has not been awarded before: *ex p. Viscusi*, *supra*; CM/205/1988 components of the same benefit dealt with by the same tribunal paragraph 13 (not doubted on this point in the later cases)." (paragraph 13.4)

[42] The Tribunal said that it had concluded that the appellant had full function of her upper arms and lower limbs and that she could attend to her bodily functions unaided and unsupervised day and night. It also said that she could cook a main meal for herself and has no mobility needs. This statement was sufficient to convey to the appellant why she was not going to receive the benefit. Put simply, the Tribunal had concluded that she had exaggerated her condition and that she was not truly disabled. We must answer the third question in the case stated in the affirmative also.

Conclusions

[43] None of the arguments made on behalf of the appellant has succeeded. We consider that the Commissioner was correct in the findings that she made and in reaching that the conclusions that she did. The appeal is dismissed.