

Roads v Central Trains Limited [2004] EWCA Civ 1541, (2004) 104 ConLR 62

1) Reference Details

Jurisdiction: United Kingdom of Great Britain and Northern Ireland, Court of Appeal

Date of Decision: 5 November 2004

Case Status: Concluded

Link to full case: <http://www.bailii.org/ew/cases/EWCA/Civ/2004/1541.html>

2) Facts

The claimant was a disabled resident of Norwich in England who used an electric wheelchair. He argued that the lack of suitable access between platforms at a railway station forced him to use a difficult and risky route when travelling. He contended that the defendants, Central Trains Ltd should make provision for a specially adapted taxi to provide transport between the two platforms. Although the only suitable taxi was an hour away from the station the issue of cost was expressly excluded, by mutual agreement between the parties.

The defendants offered two alternative solutions to the taxi; either taking the road deemed unsuitable by the claimant but used frequently by other local disabled passengers with no complaint, or travelling to a nearby station (Ely) which is adapted for disabled passengers, and crossing the line there. This solution added an hour onto the journey.

The claimant argued that the defendant's failure to make suitable arrangements constituted discrimination and that he was entitled to damages. The case was rejected at first instance.

3) The Law

National Legislation

- Disability Discrimination Act 1995 (DDA), ss. 19 and 21(2)

4) Legal Arguments

The Claimants

The claimant argued that access between the platforms came within "the service" provided by the defendants under Part III of the DDA and that the layout of the station, including the access road are classed as "physical features" of the station under s. 21(2) of the DDA. The applicant submitted that the solution to take the train to a nearby station was unreasonable as it added at least an extra hour to the normal journey time. Therefore, the defendants failure to provide suitable access between the platforms meant they were in breach of their duty to take such steps as is reasonable in all the circumstances of the case, in order to either provide reasonable means of avoiding the problematic pathway or to provide an auxiliary aid to allow him to use the station.

The Defendants

The defendants argued that the possibility of taking the train free of charge to a nearby disabled-passenger friendly station and changing platforms there discharged their burden under s. 21 of the DDA. They further submitted evidence that other disabled passengers successfully navigation of the access road showed that the accessible road for disabled passengers was not an “unreasonable” solution. Similarly they contended that the provision of a specially-adapted taxi to provide transport between the platforms or the creation of a ramped bridge, at a cost of around £750,000, were not “reasonable” solutions.

5) Decision

The unanimous decision of Buxton, Sedley and Jacob LJ. was delivered by Sedley LJ. The appeal court allowed the appeal holding that requiring the claimant to travel for at least an extra hour was not a ‘reasonable’ alternative method of accessing the platforms. The defendants had not discharged their duty under s. 21 of the DDA and were therefore unlawfully discriminating against the claimant. The defendants had no reasonable grounds to deny the provision of access to the claimant. Damages of £1,000 and special damages of £97 were awarded.

“To require him to spend over an hour - perhaps well over an hour - travelling in the wrong direction and then back again when at no cost to Central Trains a taxi could be waiting to transfer him in minutes to the other side of the track at Thetford could not on any fair view, given the policy of the Act, be called a reasonable alternative method of reaching platform 1.”

In coming to this decision the court emphasised the express exclusion of the issue of cost of the taxi which, they maintained, must have influenced the trial judge’s views.

“I am satisfied that the judge must have been critically influenced, as for reasons peculiar to this case he ought not to have been, by the cost of fetching a taxi from Norwich. It was known to be a sum approaching £50, and if it had not been for the agreement to eliminate it from the case it might legitimately have proved decisive.”

Buxton LJ. added that the exclusion of the issue of cost of the taxi was the decisive point for the appeal.

“Had it been open to the judge to take into account the cost of these arrangements to Central Trains there might well have been much more to be said about this case, and much less likelihood that this court would find itself able to intervene. But that is not the case before us today.”