



UNAPPROVED

NO REDACTION NEEDED

THE COURT OF APPEAL

Neutral Citation [2026] IECA 150

Court of Appeal Record Number: 2024/258

High Court Record Number: 2022 592JR

**Hyland J.
Meenan J.
Collins J.**

BETWEEN/

JAMIE LORDAN

**PLAINTIFF/
APPELLANT**

- AND -

**MINISTER FOR SOCIAL PROTECTION, IRELAND AND THE ATTORNEY
GENERAL**

DEFENDANT/RESPONDENT

-AND-

IRISH HUMAN RIGHTS AND EQUALITY COMMISSION

NOTICE PARTY

**RULING ON COSTS by Mr. Justice Charles Meenan delivered on the 31st day of
July 2026**

Introduction: –

1. These are judicial review proceedings in which the appellant challenged the lawfulness of a decision by the first named respondent that he was not entitled to a disability allowance which he asserted he was eligible for under the provisions of the Social Welfare Consolidation Act, 2005 (the "Act of 2005") for the period of time whilst he was in lawful custody.

2. Judgment in this matter was delivered on 17 December 2025. The appellant was unsuccessful in his appeal. This court held that, by reason of his incarceration, the appellant was not entitled to a disability allowance. In reaching this conclusion the court was of the view that the appellant had identified no breach of his rights under Article 40.1 of the 1937 Constitution and that he had identified no breach of Art. 1 Protocol 1 and Art. 14 of the European Convention on Human Rights. Both in this court and the court below the appellant relied on the decision of the Supreme Court in *PC v Minister for Social Protection* [2017] IESC 63. This court determined that the facts of *PC* were distinguishable from the facts of the instant case in that what was involved in *PC* was a contributory pension. Though imprisoned, like the appellant in the instant, case *PC* remained entitled to receive his contributory pension.

3. At para. 31 of the judgment the court expressed its provisional view that as the respondents had been “*entirely successful*” in opposing the appeal they were entitled to their legal costs. Submissions were invited from the parties.

Submissions of the parties: –

4. The appellant, in his submission sought no order as to costs on the basis that the proceedings constituted an important question regarding the status of the Act of 2005 and

required to be litigated in the public interest in order that these issues would be clarified. Further, it was submitted that the appellant brought the case as a test case in the public interest and that there were several other cases backing it up.

5. In support of his submission the appellant relied upon, *inter alia*, *Collins v. Minister for Finance (No.2)* [2014] IEHC 79 where the divisional High Court set out six principles which apply to costs in cases where constitutional issues had been raised by a losing party. Of those six principles four were relied upon: –

- (i) “Costs (either full or partial) have been awarded against the State in cases where the constitutional issues raised were fundamental and touched on sensitive aspects of the human condition...”
- (ii) Costs have been awarded where the issue was one of far-reaching importance in an area of law with general application...
- (iii) Where the litigation has not been brought for a personal advantage.
- (iv) ... Even in those cases where the court was minded to depart from the general rule and award the plaintiff costs, it did not necessarily mean that the plaintiff was held to be entitled to full costs...”

6. In response the respondent submitted that as they had been “*entirely successful*” in resisting the appeal they were entitled to their costs pursuant to the provisions of s. 169(i) of the Legal Services Regulation Act 2015. The respondents referred to the recent decision of the Supreme Court in *Little v. Chief Appeals Officer* [2024] IESC 53 where at para. 35 Murray J. stated the “*general principles*” be applied in the award of costs against an unsuccessful claimant in proceedings involving a point of law of general public importance.

Consideration of submissions: –

7. I have considered the written submissions of both parties. It is undoubtedly the case that the issue involved here was one of general public importance. The court was informed that the instant case was a “*test case*” and that there were several other cases backing it up. It seems to me that the respondents now have the benefit of this issue being clarified in the instant case and thus they avoid incurring the legal costs involved had the other cases proceeded.

8. Though unsuccessful, there was a significant legal issue to be determined given the decision of the Supreme Court in *PC* which also involved the payment of social benefits to those whilst in prison.

9. Although the appellant was seeking a personal benefit from the proceedings I am of the view that, having regard to the matters set out in the previous paragraphs, the appropriate order in this case is “*no order as to costs*”.

10. As this ruling is being delivered electronically, both Hyland and Collins JJ. have authorised me to record their agreement with it.