



HIGH COURT OF AUSTRALIA

9 November 2016

COMCARE v PETA MARTIN

[2016] HCA 43

Today the High Court unanimously allowed an appeal from the Full Court of the Federal Court of Australia. The High Court held that the deterioration of the respondent's mental condition was suffered as a result of administrative action undertaken by her employer, and therefore may not constitute an "injury" for which the appellant, Comcare, was liable to pay compensation under the *Safety, Rehabilitation and Compensation Act 1988* (Cth).

The respondent, Ms Martin, was employed by the Australian Broadcasting Corporation as a producer of a local morning radio program. She had a difficult working relationship with her direct supervisor, who she thought was bullying and harassing her. Following a number of attempts to remove herself from his supervision, Ms Martin was appointed to act temporarily in the higher position of cross media reporter. Ms Martin subsequently applied for and was interviewed for permanent appointment to that position. The selection panel informed Ms Martin that she had not been appointed to the permanent role and would be returning to her previous position under the supervision of her previous supervisor. At that point, Ms Martin broke down uncontrollably and subsequently was diagnosed with an adjustment disorder, rendering her unfit for work.

Ms Martin made an application for compensation to Comcare, which was refused on the basis that her adjustment disorder was "suffered as a result of reasonable administrative action" and therefore was not an "injury" as defined in s 5A(1) of the *Safety Rehabilitation and Compensation Act 1988* (Cth). Ms Martin appealed the merits of Comcare's decision to the Administrative Appeals Tribunal. The Tribunal found that Ms Martin was suffering from an adjustment disorder during the period in which she was acting as cross media reporter and that the adjustment disorder deteriorated as a result of her failure to obtain the permanent position. However, the Tribunal also found that the decision not to appoint Ms Martin had not been taken in a reasonable manner and therefore Comcare was liable to pay compensation. That finding was overturned on an appeal by Comcare to the Federal Court of Australia. An order was made remitting the matter to the Tribunal. Ms Martin then appealed to the Full Court of the Federal Court, which, by majority, allowed her appeal. The Full Court construed the phrase "as a result of" in s 5A(1) as requiring the application of a "common sense" approach to causation, and held that the Tribunal failed to apply that approach. By grant of special leave, Comcare appealed to the High Court.

The High Court unanimously allowed the appeal, holding that the Full Court erred in construing the phrase "as a result of" in s 5A(1) as importing a "common sense" notion of causation. The Court held that the causal connection required in s 5A(1) is met if, without the taking of the administrative action, the employee would not have suffered the ailment or aggravation that was contributed to, to a significant degree, by the employee's employment. The High Court allowed the appeal and made orders with the effect that the matter is remitted to the Tribunal to determine, according to law, whether the administrative action was taken in a reasonable manner.

This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.