



REPUBLIKA E KOSOVËS - РЕПУБЛИКА КОСОВО - REPUBLIC OF KOSOVO
GJYKATA KUSHTETUESE
УСТАВНИ СУД
CONSTITUTIONAL COURT

Pristina, 19 March 2013

Ref. No.:RK395/13

RESOLUTION ON INADMISSIBILITY

in

Case No. KI141/11

Applicant

Ramadan Rrahmani

**Constitutional Review of the Decision No.5017415 of Pensions Administration
of the Republic of Kosovo, dated 26 February 2009**

THE CONSTITUTIONAL COURT OF THE REPUBLIC OF KOSOVO

composed of:

Enver Hasani, President
Ivan Čukalović, Deputy-President
Robert Carolan, Judge
Altay Suroy, Judge
Almiro Rodrigues, Judge
Snezhana Botusharova, Judge
Kadri Kryeziu, Judge and
Arta Rama-Hajrizi, Judge

Applicant

1. The Applicant is Mr. Ramadan Rrahmani with residence in Fushë Kosovë.

Challenged decision

2. Decision No. 5017415 of the Department of Pension Administration of the Republic of Kosovo in the Ministry of Labor and Social Welfare (hereinafter: DPAK-MLSW), dated 26 February 2009.

Legal basis

3. Article 113.7 of the Constitution, Articles 20, 22.7 and 22.8 of the Law No.03/L-121 on the Constitutional Court of the Republic of Kosovo of 15 January 2009 (hereinafter: the "Law") and Rule 56 (2) of the Rules of Procedure (hereinafter: the "Rules of Procedure").

Subject matter

4. The subject matter has to do with Applicant's rights to disability pension as well as to compensation of body injuries that the Applicant suffered during the working hours.

Proceedings before the Court

5. On 31 October 2011, the Applicant submitted the Referral with the Constitutional Court of the Republic of Kosovo (hereinafter: the "Court").
6. On 17 January 2012, the President of the Constitutional Court, by Decision No.GJR.KI-141/11, appointed Judge Iliriana Islami as Judge Rapporteur. On the same date, the President by Decision No.KSH.KI-141/11, appointed the Review Panel composed of Judges Robert Carolan (Presiding), Altay Suroy and Gjyljeta Mushkolaj.
7. On 18 April 2012, the Court notified Applicant about registration of Referral and requested from him to specify the Referral.
8. On 16 May 2012, the Applicant responded to the Referral of the Court.
9. On 5 November 2012, the President of the Constitutional Court, by Decision No.GJR.KI-141/11, appointed the Judge Arta Rama-Hajrizi as Judge Rapporteur after the end of the mandate of the Judge Iliriana Islami as the Court Judge. On the same date, the President by Decision No.KSH.KI-141/11, appointed the new Review Panel composed of Judges Robert Carolan (Presiding), Altay Suroy and Kadri Kryeziu, after the end of the mandate of the Judge Gjyljeta Mushkolaj as the Judge Court.
10. On 12 November 2012, the Court requested from the Applicant to clarify several aspects of his Referral. The Applicant did not respond.
11. On 5 December 2012, the Review Panel reviewed the report of Judge Rapporteur and proposed to the full Court the inadmissibility of the Referral.

Summary of facts as submitted by the Applicant

12. On 5 May 1984, Self-Governing Community of Interest (SCI) of Pension Disability Insurance of Kosovo by Decision P.no.20714, established that the Applicant, who is ranked in the first category of disability, is recognized the right to disability pension,

starting from the day of termination of receipt of personal income. Besides the pension, he is also recognized the right to compensatory supplement.

13. On 24 December 1986, the Court of Joint Labour in Prishtina by Decision Np-no. 903/82, provided that SOE "Ramiz Sadiku" the company of transport and machinery in Prishtina, is obliged to pay to Applicant compensation for reduced working capacity due to injury at work, within 15 days from the day the decision became final. At the same time, SOE "Ramiz Sadiku" is obliged to pay to Applicant supplementary benefit (RENTA) every month on behalf of compensation for reduced working capacity as well as to pay the costs of proceedings.
14. On 1 September 2004, the Applicant filed a request, regarding the pension for disability persons, with the Ministry of Labor and Social Welfare.
15. On 26 February 2009, Ministry of Labor and Social Welfare notified the Applicant that the Doctor's Commission had evaluated that the Applicant meets the requirements provided by the Law 2003/23 on selection for disability pension, and that the right of the Applicant to pension is extended from 1 January 2009. The monthly amount that the Applicant will receive was 45 euro. The Applicant was also notified that he may challenge the abovementioned decision in DPAK -MLSW.
16. From the submitted documents, there is no evidence that the Applicant has complained against the abovementioned decision of the DPAK -MLSW.

Applicant's allegations

17. The Applicant alleges violations to his detriment of Articles 16[Supremacy of the Constitution] paragraph 3 "The Republic of Kosovo shall respect international law" and 54 [Judicial Protection of Rights] of the Constitution.
18. The Applicant alleges that the Pension Center of Persons with Disabilities did not respect previous decisions of the courts, based on which he should enjoy the right to difference of salary (supplementary benefit/renta) up to the retirement age, which implies the right to obtain pension at the amount of €80 (and not the conferred amount of €45), since the beginning of receiving pension from 1 May 2004.
19. The Applicant alleges that his right to obtain supplementary benefit (renta) was denied, respectively the difference between the worker's salary and disability pension as of the beginning of the receipt of pension from 1 May 2004, as it was decided by different previous court decisions and submitted as evidence.
20. The Applicant alleges that his right to orthopedic devices, rehabilitation in health spas, and continuation of recovery in the institutions abroad was denied.
21. Finally, the Applicant, in order to support his claims provide the following evidence:
 - a) Judgment of Supreme Court of Kosovo A.no.1120/83 dated 19 January 1984;
 - b) Decision of Municipal Court in Prishtina P.no.2202/92 dated 28 January 1993;
 - c) Decision of Court of Joint Labour in Prishtina Np.no.903/82, dated 24 December 1986.

Assessment of the admissibility of the Referral

22. In order to be able to adjudicate on Applicant's Referral, the Court first needs to examine whether he fulfilled all the admissibility requirements laid down in the Constitution as further specified in the Law and the Rules of Procedure.
23. As far as the Referral of the Applicant is concerned, the Court is referred to Article 49 of the Law, which provides:

"The referral should be submitted within a period of four (4) months. The deadline shall be counted from the day upon which the claimant has been served with a court decision. In all other cases, the deadline shall be counted from the day when the decision or act is publicly announced. If the claim is made against a law, then the deadline shall be counted from the day when the law entered into force."

24. From the submissions it can be seen that the Referral was filed on 31 October 2011 and that the decision of the DPAK-MLSW was served to the Applicant on 26 February 2009, which means that the Referral was not submitted within legal time limit provided by the Article 49 of the Law.
25. Consequently the Referral is out of time.
26. Therefore, the Referral should be rejected as inadmissible due to failure to meet the legal time limit, provided by Article 49 of the Law.

FOR THESE REASONS

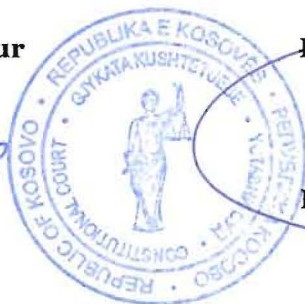
The Constitutional Court, pursuant to Article 113.7 of the Constitution and Article 49 of the Law and Rule 36 (1.b) of the Rules of Procedure, on 5 December 2012, unanimously

DECIDES

- I. TO REJECT the Referral as inadmissible;
- II. This Decision shall be notified to the Parties and shall be published in the Official Gazette, in accordance with Article 20 (4) of the Law; and
- III. This Decision is effective immediately.

Judge Rapporteur

Arta Rama-Hajrizi



President of the Constitutional Court

Prof. Dr. Enver Hasani