Browne Jacobson

Supreme Court pension ruling in favour of part-time judges could cost Ministry of Justice £1 billion

The Supreme Court handed down judgment in the case of Miller v Ministry of Justice on “when time starts to run” for a claim by a part-time judge to a pension under the Part-time Workers Regulations.

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Today (16 December) the Supreme Court handed down judgment in the case of Miller v Ministry of Justice on “when time starts to run” for a claim by a part-time judge to a pension under the Part-time Workers Regulations. In handing down its judgment, the Supreme Court unanimously found that the point of unequal treatment occurs at the time the pension falls to be paid.

The impact of the Supreme Court’s judgment is significant. It is anticipated that over 1,000 judges have brought claims or are relying on the moratorium. Browne Jacobson currently represents around 400 judges and it is anticipated that the cost to the Ministry of Justice could reach £1 billion.

The lead appellants were represented by Robin Allen QC and Rachel Crasnow QC of Cloisters instructed by Caroline Jones and Tim Johnson at Browne Jacobson.

Caroline Jones, Senior Associate at law firm Browne Jacobson acting on behalf of the four lead appellants, said:

“The appellants are delighted by the judgment and that equal treatment has finally been achieved. This judgment means that fee-paid judges who were subsequently appointed full-time salaried members of the judiciary will now be entitled to pensions in respect of their former part-time service.”

Robin Allen QC and Rachel Crasnow QC of Cloisters jointly added:

“We are delighted that the Supreme Court has accepted our argument on behalf of these judges. While our submissions were always based on the law as we understood it, it has also seemed to us deeply unfair to hold that where a person suffers a pension regime which discriminates against part-time workers, they should have to bring proceedings before they actually retire and claim their pension. We are delighted that Lord Carnwath giving the judgment of the Supreme Court agreed saying that it was indeed “common sense” that such claims could be made at any time up to the end of the primary time limit of three months from the point of retirement. Browne Jacobson is to be congratulated for supporting these judges over such a long period of litigation all the way to the Supreme Court and ensuring that common sense prevails.”

The four lead Miller appellants each held one or more appointment as a fee-paid part-time judge and moved between fee-paid and/or salaried appointments within the judiciary. Each lodged their claims more than three months after the end of at least one of their part-time appointments. To date, these judges have been denied a pension in respect of their fee-paid service on the basis that time runs from the ending of each fee-paid appointment about which a complaint is made, irrespective of whether they transferred into a salaried appointment.

The appellants argued that their claims were not made out of time on the basis that the less favourable treatment continues up to and including the point of retirement and that the correct question to pose was when did the less favourable treatment finally occur.

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