

THE HIGH COURT

IN THE MATTER OF THE GARDA (COMPENSATION) ACTS, 1941 AND 1945

[2008 No. 933 S.P.]

BETWEEN

DONAL CRONIN

APPLICANT

AND

THE MINISTER FOR FINANCE AND PUBLIC EXPENDITURE

RESPONDENT

JUDGMENT of Mr. Justice Bernard J. Barton delivered on the 24th day of May, 2019

1. This matter comes before the Court by way of an application for compensation pursuant to the provisions of the Garda (Compensation) Acts, 1941 to 1945 and arises from an incident which occurred in the course of the Applicant's duties as a member of An Garda Síochána while he was attending at Limerick Circuit Court on the 9th July, 2004. The Applicant was injured in the course of a violent struggle which ensued when he attempted to restrain a prisoner who tried to escape the execution of a bench warrant. The prisoner struck the Applicant a number of blows before a fellow officer came to his assistance. Together they ultimately managed to subdue the prisoner but not before he tripped the Applicant, causing him to fall awkwardly on his left knee with the prisoner and fellow officer falling on top of him.

Background

2. The Applicant was born on the 10th June, 1966, and resides in Crecora, County Limerick. On completion of his secondary education he decided to enter the nursing profession and qualified as a psychiatric nurse. He was socially gregarious and had a keen interest and participated in outdoor sports, particularly GAA football, a code in which he also coached. Not long after qualification he decided to change vocational direction and become a police officer. He attended the Templemore Training College and passed out in August 1991. There is no doubt that to whatever he turned his hand the Applicant was personally motivated and ambitious; whatever profession or calling he entered his intention was to progress as far as was possible, and so it turned out. He sat his sergeant's exams, which he passed with distinction, in 1995. However, the Court is well aware, as the facts in this case show, that passing that exam and securing an appointment are creatures of a different colour. The question of appointment arises only where a vacancy occurs; in that event there may be several qualified candidates for the post and in his case the Applicant had to wait until 1999 before he was promoted to sergeant. Prior to that he had been involved in the training programme at Templemore College. His ambitions to secure promotion did not end with his appointment as a sergeant; he returned to studies to take exams which would qualify him for promotion to the rank of inspector which he took successfully in 2001.

3. In the year following he was transferred to Limerick. As with other officers he worked to a roster and in October 2003 he was promoted to the rank of sergeant in charge at Henry Street. This was a significant posting. The populace of the city was exposed to the results of the violent excesses then being perpetrated in the course of a feud between two gangland families and their associates. As the sergeant in charge at Henry Street the Applicant found himself in a very challenging position; he was quite literally in the front line of the fight back by the police service of the State against criminality in the city. Discharging his responsibilities in this position meant that he had to undertake a lot of overtime for which, incidentally, he willingly volunteered. Well over a third of his annual income was made up of overtime and this remained the case up until the time of the assault.

4. Although the Applicant had passed his inspector's exams with a distinction, he had not secured promotion by July 2004. In addition to passing exams the process of promotion involves taking part in what was referred to as an interview competition for a place conducted by an interview board. Success at interview is no guarantee of an appointment; that depends on a vacancy occurring for which there may be a number of successful candidates; a circumstance which is of significance to the central issue in controversy which remains between the parties. They reached agreement in relation to pecuniary loss save in respect of this head for which a very significant claim has been advanced.

5. It is quite clear from the actuarial evidence which was adduced and from the documented records which were proved that promotion to the rank of inspector would not only have impacted on the Applicant's past income but also on his future earnings including the lump sum payment and pension benefits which he would expect to receive on retirement. There had been considerable controversy concerning the basis upon which the Applicant's claim for future loss of earnings as a sergeant should be calculated. In the event, having ventilated their respective positions in the course of the hearing the parties were able to reach agreement in relation to the following heads of pecuniary loss:

- (i.) €129,224 in respect of past and future loss of earnings as a sergeant;
 - (ii.) €26,894 in respect of the claim for medical costs associated with knee replacements; and,
 - (iii.) €10,512 for other expenses;
- Total €166,630.

6. What remains to be determined by the Court in respect of the Claim for pecuniary loss is whether or not the Applicant would have been appointed to the rank of inspector and if so the approximate date upon which an appointment would probably have occurred. Subject to the conclusion reached by the Court on this issue, actuarial computations were made available to facilitate the computation of the relevant loss. One other matter remains in issue, the assessment of general compensation for the Applicant's injuries. I pause here to observe that the injuries, about which there is no significant divergence of medical opinion, were serious and have resulted not only in physical disability but also in ongoing pain and discomfort.

7. However, the significant sequelae he experienced did not deflect the Applicant from perusing his options to advance himself in the force. Subsequent to the assault he attended two interview board competitions for promotion to inspector, one in 2010 and the other in 2014, in neither of which he was successful. This was not, however, the end of his ambitions in the intervening years. He read law

securing a diploma in law in 2002 and an LLB qualification in 2007. No doubt encouraged by the success he followed that by reading law at the Kings Inns and was called to the Bar of Ireland in 2010. The legal knowledge acquired in the process and his legal qualifications have stood him in good stead.

8. In 2011 the Applicant was promoted to the position of court presenter, a role ordinarily performed by an inspector. He finds the role satisfying and it has the added benefit of accommodating his ongoing disabilities, however, a part of his case is that these very same disabilities prevent him from undertaking external policing duties which he has identified and contends was the sole reason for his failure to successfully complete the competition interviews for promotion in 2010 and 2014, about which more later.

Injuries

9. The Applicant was admitted to Limerick Regional Hospital following the assault. He had complained of being in severe pain and of having heard a 'crack' in his left knee when he fell to the floor. X-rays of his left knee confirmed he had suffered a depressed fracture of the lateral tibial plateau. Professor Eric Masterson, Consultant, Orthopaedic Surgeon, reduced the fracture under general anaesthetic and elevated the depressed articular surface; bone was harvested from the left iliac crest and used to support the collapsed lateral articular surface. The fracture of the lateral tibial condyle was fixed with an L-shaped plate and screws; the leg was then placed in a plaster cast. After a few days observation the Applicant discharged from hospital on the 14th July, 2004.

10. He was followed up in the outpatient department of the hospital. The plaster cast was removed on the 13th August, 2004 and replaced with a brace which the Applicant wore until in or about October/November the same year. He was unable to return to work until February 2005 at which stage he was medically certified fit to undertake light duties. Although he was then nominally a sergeant in charge the Applicant was only able to undertake light duties. In the event it transpired that he would never again be medically certified fit to undertake full policing duties.

11. Initially the injuries had been excruciatingly painful. The Applicant took painkillers and anti-inflammatory medication, including Difene. He also undertook a course of physiotherapy. Unfortunately for him, in June 2005 he developed cellulitis on his left shin and was experiencing a lot of pain in his injured knee joint. He was admitted to hospital and given intravenous antibiotics for three days. This would not be the last time he developed cellulitis, the condition returned again in 2006 and necessitated a further admission to hospital where he was given intravenous antibiotics over a four day period. At this time he underwent surgery for removal of the plate which had been used to fix the knee fracture.

12. Throughout this time the Applicant remained symptomatic for his physical injuries in addition to which he also developed psychological sequelae which manifested in flashbacks, sleep disturbance, irritability, social withdrawal and anxiety, symptoms for which he initially attended his GP, Dr. Robert Magnier and subsequently a psychological counsellor, Mr. Patrick Gould. The applicant found counselling for his psychological sequelae beneficial and these symptoms gradually resolved.

13. The physiotherapy course undertaken was initially every two weeks accompanied by a home exercise programme which continues to date; he remains symptomatic. The surgery necessitated an incision which has left a vertical scar extending some 22 cm over the lateral aspect of the left knee joint. From an early stage both Prof. Masterson and Dr. Pat O'Neill, Consultant in Sports and Orthopaedic Medicine who reviewed the Applicant in January 2006, prognosticated that he would probably suffer post-traumatic osteoarthritis of the lateral compartment of the left knee and that this would most likely lead to further operative intervention and/or a total knee replacement depending on the nature and severity of symptomatology.

14. Unfortunately for the Applicant this early prognosis has been born out earlier than was initially anticipated and is not in dispute between the parties. Indeed Mr. Joe Sparks, Consultant Orthopaedic Surgeon, who assessed the Applicant on the 9th January, 2017, prepared a report on behalf of the Respondent in which he expressed the opinion that the Applicant had already developed post-traumatic osteoarthritis of the left knee which was likely to progress to a requirement for a total knee replacement for which the parties have agreed castings. By the time the Applicant had already had two arthroscopies, one in 2008 and the other in 2014. Mr. Sparks was concerned that the finding he made on clinical examination, including an abnormality of the knee architecture, probably represented a progressive deformity due to degenerative changes and he recommended further x-rays be undertaken in due course with a view to assisting in the timing of a knee replacement.

15. Mr. Ray Moran, Consultant Orthopaedic Surgeon, who reported on behalf of the Applicant in the autumn of 2016, described MRI scan findings of the 21st October, 2015 as showing marked osteoarthritic changes in the lateral compartment of the left knee with significant osteophyte formation and erosion of the articular surface. In his view it was likely that within a few years the Applicant would require a knee replacement. This is a significant finding in a number of respects not the least of which is that in a medical report of the 14th April, 2014, the previous year, Prof. Masterson had reported on the two arthroscopies. He found that joint surfaces were normal apart from an area of partial thickness cartilage loss on the lateral tibial plateau and concluded that there was no deterioration in the appearance in April 2014 when compared with the previous scope in 2008. The menisci were normal, noting that the MRI scan at the time suggested otherwise.

16. Clinical examination at the time disclosed a full range of motion of the left knee with no effusion present; the knee was stable. Professor Masterson was encouraged by the findings and concluded that it was unlikely a knee replacement would be required before the age of 65, indeed, he thought the chance of the Applicant developing significant arthritis in the lateral compartment of his left knee joint requiring a knee replacement during the Applicant's lifetime at around 30%. This prognosis turned out to be overly optimistic. In the ensuing two years the condition deteriorated significantly as confirmed by subsequent scanning and as comprehensively reported upon by Mr. Moran and Mr. Sparks.

17. Just as Dr. Pat O'Neill had prognosticated in January, 2006 the Applicant experienced further recurrent episodes of cellulitis two of which were particularly acute, one in December 2007 and the other in March, 2008. On both occasions the outbreak necessitated treatment with antibiotics. Thereafter, however, the condition appears to have cleared up. Indeed, the Applicant's evidence to the Court was that 2008 into 2009 was probably the period during which he was least symptomatic.

18. Nevertheless, he was never able to return to playing GAA and had even had to give up coaching which was a particular disappointment for him, however, he recovered sufficiently to be able walk up to three or four miles without much difficulty. He was able to function without the assistance of physiotherapy. In that regard the interval between sessions had by then reduced to an average of one in eight to ten weeks. In the following years, however, he experienced a return to swelling and increasing pain in his left knee. Although he continued to try walking this activity only provoked his symptoms. By the time of the hearing he described his knee pain as being almost constant and accompanied by stiffness.

19. His work as a court presenter involves a lot preparation which requires him to work overtime quite regularly. He appears in the District Court three to four days per week. He is able for this work and accepted that he had applied for a permanent posting to the

position but did so only because it was compatible with his physical injuries rather than as a career option. The Applicant was not too sure how long he could put up with the pain before he would have to have an operation. He had been advised by Mr. Moran that the operation would probably be necessary within a period of two to three years at the outside. However, at the hearing he thought he would have to have the operation within about eighteen months. As to what he might expect as a result of the operation, he had been advised that this would dramatically reduce his pain and improve function, however, he did not accept that he would ever be medically certified fit for full operational duties following surgery and his evidence was that he had been so advised by his consultant orthopaedic surgeon, however, medical evidence to this effect was not adduced.

20. With regard to his prospects for promotion to inspector the Applicant's evidence and the case made on his behalf was that his inability to perform full policing duties, in particular his ability to participate in outdoor duties had, militated against him to such an extent that despite the results of the competition board interviews this was the real reason why he had not been successful in securing promotion to inspector. His belief in this regard was unshakeable and was the explanation offered as to why he had not been successful at interview. The results of the 2010 and 2014 interview were documented and proved in evidence. Although it is clear he had met the requirements and had performed very well at the interviews it was indicated that he needed to demonstrate his capacity to perform in certain identified competencies.

21. The case made on behalf of the Applicant was that he was unable to comply due to his physical disabilities which prevented him from carrying out full policing duties. He knew of other colleagues who had secured promotion who he believed had performed less well than he had. Chief Superintendent O'Brien, now retired, was called on behalf of the Applicant to give evidence in relation to the procedure for promotion and the Applicant's prospects in that regard had he not been injured. This witness had immense operational experience. He did not know the Applicant before the case. Part of his job experience involved human resources and he served in this capacity at headquarters in the Phoenix Park. Commenting on the interview board results he considered the scores achieved by the Applicant at the interview in 2010 to be excellent, however, he described the report as being written in what he described as "diplomatic language". The conclusion he reached from this was that the Applicant's injuries prevented him from functional duties. The recommendations made by the interview board with regard to what he might do in order to succeed at a competition for promotion to the rank of inspector could not, as a result, be implemented. Chief Superintendent O'Brien was highly critical of the system which he described as being "unfit for purpose". The interview board was operating on a basis which was out of date and did not make allowances for a candidate with disabilities such as those suffered by the applicant. The plain fact of the matter was that the role which a Garda inspector has to play is significant; an officer in that rank must be able to be involved in public service duties including an ability to perform front line duties.

22. Under cross examination he accepted that there are guidelines to the members of the board and that they are not supposed to take account of medical records when carrying out an assessment, however, his understanding was that they had the Applicant's personal file on which his medical records are ordinarily kept. He thought it was unreal that the board members would be able to put out of their minds the content of what they had read. However, this was a proposition with which, for different reasons, was disputed by the Respondent.

23. In this regard Inspector Power was called to give evidence. He is assigned to Garda Human Resources. His responsibilities include overseeing all promotion competitions and allocation of personnel within An Garda Síochána, including transfers. He was based in the Phoenix Park and was familiar with the promotion process from the rank of sergeant to that of inspector. He gave evidence that the promotion procedure is heavily regulated. He too had seen the results of the 2010 and 2014 interviews. The board was appointed by the Minister for Justice and consists of trained personnel some of whom were HR consultants but all of whom are trained in the Garda promotional procedures. With regard to the records available to the interview board Inspector Power's evidence was that whilst the personnel file is made available to the board, the medical records of the candidate were not included and the board members were not made aware of any sickness or injuries which were sustained by a candidate in the course of his or her duty.

24. All candidates applying must be given an interview following which there is a second round. It is invariably the case that there are more applicants than places. For example, of seventeen sergeants in the Limerick division who applied for promotion only four of the candidates were successful. Two of these were for roles which were administrative in nature. There was no basis for the proposition that injuries sustained on duty were an impediment to promotion to the rank of inspector, quite the contrary, it was not uncommon for a candidate coming from administrative posts without significant operational front line experience to be appointed to the rank of inspector.

25. He stressed that a distinction had to be made between the role or job which any given candidate would be required to perform and the rank, a distinction which to his mind was of particular importance considering the subject upon which he had been called to give evidence. The plain fact of the matter was that if the Applicant had been promoted and appointed to the rank of inspector he, like all other successful candidates, would have had to have been assessed before being assigned, accordingly, where a candidate is found to have a physical disability he would not have been assigned to an external operational position, moreover, it had to be understood that every candidate had to demonstrate their competencies to the board. The members would be aware that candidates were coming from different roles, administrative and operational. They write their own account in this regard as did the Applicant.

26. Finally, with regard to the criticism of the criteria on foot of which the board was operating, Inspector Power gave evidence in relation to an internal review into this subject as a result of which a report had been prepared in 2015 which contained recommendations that would address the criticisms made by Chief Superintendent O'Brien. Inspector was familiar with the report and was involved in its preparation; he fully expected it to be implemented. Whether this would make any difference in the case of the Applicant he could not say but in his view there was absolutely no reason why the Applicant could not apply when the next competition is announced; as in the past his injuries and the vocational impact they may have would not be disclosed and would remain unknown.

Decision; Injuries

27. The medical evidence in this case is contained in the several medical reports admitted by the parties and prepared by Dr. Robert Magnier, Dr. Pat O'Neill, Prof. Eric Masterson, Patrick Gould, Patricia O'Connell, John Casey physiotherapist, Dr. Malone, Mr. Ray Moran, the CMO and Mr. Joe Sparks. The reports have been read and considered by the Court

28. Apart altogether from some soft tissue injuries which he sustained at the time as a result of the blows administered by the prisoner whom he was trying to restrain and about which the Applicant very fairly makes very little, I am satisfied and the Court finds that he sustained a very serious injury to his left knee consisting of a depressed intra-articular fracture of the lateral tibial plateau of his left knee joint which required operative intervention under general anaesthetic in the form of an open reduction and internal fixation of the fractures with a plate and screws which required bone grafting from the left iliac crest. The operation has left a permanent 22 cm scar over the left knee which is cosmetically significant but about which, again, the Applicant makes little complaint. Initially the injuries were the source of acute pain and discomfort. The Applicant's left leg was placed in a plaster cast

which was removed in August, 2004 and replaced with a leg brace which he wore until October/November of the same year. He was unable to return to work until February, 2005. Unfortunately for him he developed recurring cellulitis as a consequence of the injuries several episodes of which were acute and on at least two occasions required hospital admission for a number of days for the administration of IV antibiotics. These recurring episodes did not resolve until in or about the spring of 2008.

29. I am also satisfied and the Court finds that the Applicant experienced some psychological sequelae in the months after the accident in the form of flashbacks, disturbed sleep, irritability and anxiety but that these symptoms resolved with the assistance of counselling from Mr. Gould. I am satisfied that the Court finds that the Applicant did everything he could to try and rehabilitate himself, attending courses of physiotherapy, undertaking home exercises and trying to get back to his pre-accident sporting activities. However, although he managed to regain a capacity to walk for up to three to four miles without much difficulty in the early years following the assault he was never again able to return to participating in GAA or in coaching which, given his pre-accident interest and involvement in those activities, was a significant disappointment to him, accordingly, the injuries have had a permanent impact on an amenity of life in which he participated and was the source of enjoyment for him until the assault.

30. Although recovery was slowed by the recurrent cellulitis and the Applicant appeared to be making progress towards a good functional recovery thereafter the reality turned out to be altogether different. He developed post-traumatic osteoarthritis in his knee joint which resulted in an increasing level of symptomology to the point where he is now in almost constant pain and discomfort. His ability in 2008 to walk three or four miles without too much difficulty has been reduced to approximately 500 metres because of the pain the activity produces. It is apparent from the medical evidence, which I accept, that on clinical examination over the years objective signs of the effect which the injuries were having on the capacity to use his left leg was apparent such as, for example, muscle wasting.

31. Arthroscopies of the left knee were carried out in 2008 and 2014, a procedure necessitated because of the symptomology experienced at the time. Although Prof. Masterson was hopeful in 2014 that the development of osteoarthritis would not develop for a long time and that the risk of it developing was less than 50% it transpired the signs seen on an MRI scan at that time turned out to be correct as demonstrated by the subsequent MRI and the clinical findings comprised in the reports of Mr. Moran and Mr. Sparks. The osteoarthritis has progressed to the point where not only is his knee stiff and sore the pain is at a level where it can wake the Applicant from his sleep, an event which occurs up to three or four times per week.

32. Mr. Moran expected the symptomology to increase with the deterioration in the condition and that the Applicant would need a knee replacement within about two to three years, however, his evidence at the hearing, which I accept, is that he expected he would have to have the operation within about eighteen months. That is indicative of the level of discomfort and pain experienced in respect of an injury which sustained as a result of an assault occasioned as long ago as 2004. It is accepted by the Respondent that the Applicant will have to undergo a knee replacement and that the knee replacement is attributable to the assault, the associated medical costs of which have been agreed.

33. The Applicant's evidence was that he had been advised by his Consultant Orthopaedic Surgeon on the likely outcome of the operation. He was advised that it would substantially reduce if not abolish the knee pain, however, his understanding of what he had been advised was that although the operation was likely to be successful in this regard it was unlikely he would be certified medically fit to carry out front line duties. Although medical evidence to that effect was not adduced in the course of the hearing I have no reason to doubt the Applicant's evidence in this regard, albeit hearsay, is correct.

34. Accordingly, I consider it reasonable to conclude and the Court finds as a matter of probability that such will be the likely result of the operation. In the absence of any other evidence to the contrary I also accept the Applicant's evidence and the Court finds that although the knee replacement operation is likely to significantly if not completely abolish the pain and discomfort caused by the osteoarthritis it is unlikely that he will be medically certified fit for full front line policing duties in future.

Assessment of General Compensation; The Law

35. . There is no controversy between the parties in relation to the law or the principles to be applied in relation to the assessment of general compensation. Consistent with the decisions of this court in *Bennet v. Cullen* [2014] IEHC 574 and *Murphy v. The Minister* [2015] IEHC 868 the Court has had regard to the Book of Quantum in carrying out its assessment. The principles to be applied to the assessment of general compensation for injuries sustained to an Applicant under the scheme established by the Garda Compensation Acts are exactly the same as those to be applied to the assessment of compensation of general damages for injuries and loss tortuously inflicted on a plaintiff.

36. The object of compensatory damages is to place the plaintiff back into the position in which he was, insofar as that is possible by a money award, at the time when the wrong was committed. Recompense for pecuniary loss is a relatively straight forward exercise and is readily ascertainable in most cases, however, money is rarely if ever an adequate remedy for someone who has suffered a serious physical injury, nevertheless, that is the remedy prescribed by the law. The result must be an award which is just and to be just it must be fair, reasonable to both parties, moreover, it must be commensurate with and proportionate to the injuries and loss sustained. See *Bennet infra*, *Murphy infra*, *Mullen v. the Minister for Finance and Public Expenditure* [2016] IEHC 868; *O'Hara v. The Minister for Finance and Public Expenditure* [2018] IEHC 493 and *BD v. The Minister for Health and Children* [2019] IEHC 173. The Court is aware of the decision in *Kampff v. The Minister for Finance and Public Expenditure* [2018] IEHC 371. For the reasons set out in *O'Hara* and *B.D.*, I do not accept that it is correctly decided on the law.

37. Finally, general damages or as is the appropriate term in the case of an application under the Garda Compensation Acts, 'compensation' for pain and suffering is intended to cover all of the reasonably foreseeable consequences of the wrong, which, in addition to the neurological experience of physical pain or mental pain includes the impact which the injuries have had on the amenities of life enjoyed by the applicant or as might likely have been enjoyed by him together with the inconvenience the caused or is likely to be caused in the future.

Conclusion

38. Having regard to the findings made in this case to the period of time which has elapsed since the assault was committed and to the fact that the applicant has yet to undergo surgery under general anaesthetic for a knee replacement and the post-operative recovery attendant upon that event the court considers that a fair and reasonable sum to compensate the applicant commensurate with the injuries for pain and suffering to date is €95,000 and for pain and suffering into the future is €25,000 making an aggregate total of €120,000 general compensation.

Decision; Pecuniary loss claim

39. Although I am quite satisfied that the Applicant was sincere in his belief that the reason why he has not been successful in his application to be promoted to the rank of inspector is attributable and solely attributable to the injury sustained as a result of the

assault, having regard to the evidence of Inspector Power, which I accept, I am not satisfied he is correct in the conclusions which he has drawn from his belief. I found the evidence advanced on behalf of the Respondent on this question particularly convincing, moreover, I found Inspector Power to be an entirely objective witness. I wish to make it clear that this is not in any way to be taken as a finding that as a witness Chief Superintendent O'Brien was otherwise, quite the contrary and I am also quite satisfied he was doing his best to assist the Court.

40. However, the law is quite clear, it is not for the Respondent to disprove the case made by the Applicant, rather it is the other way around. The Applicant is required to establish, on the balance of probabilities, the case he makes in respect of this head of claim, namely, that but for his injuries it was likely he would have been appointed to the rank of inspector. I am not satisfied on the evidence adduced by and on behalf of the Applicant that the onus of proof in this regard has been discharged and this is particularly so in the face of the evidence adduced on the issue on behalf of the Respondent.

41. Having regard to the fact that the interview board would not have had access to the Applicant's medical records and would not otherwise have been aware of his injuries or the associated physical disabilities and to the fact that candidates involved in purely administrative roles are appointed to the rank of inspector it would simply not be open to the Court to properly conclude that it was the Applicant's physical disabilities arising from the assault which prevented him securing a successful outcome to the interviews in 2010 and 2014. I am satisfied and the Court finds the consequences of the injuries played no part in the outcome of those interviews.

42. It follows that consideration of the very substantial pecuniary loss claim made in respect of the failure to secure a competition place for appointment to the rank of inspector does not arise, moreover, for the same reasons it is not open to the Court to make provision by way of additional general compensation for loss of opportunity. If it's any consolation to the Applicant I am also satisfied that should he decide to reapply for interview when the next competition is announced the injuries sustained as a result of the assault and the consequences thereof will fall for consideration and will not therefore be an impediment to a successful outcome.

Ruling

43. Adding the sum of €166,630 agreed between the parties in respect of pecuniary loss to the sum of €120,000 assessed in respect of general compensation the Court will award of €286,630 in total. And the court will so order.