

# HIGH COURT OF AUSTRALIA

EDELMAN J

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KARIADATH PANANGAT MANIKANTAN

PLAINTIFF

AND

SECRETARY, DEPARTMENT OF EMPLOYMENT  
AND WORKPLACE RELATIONS & ORS

DEFENDANTS

[2025] HCASJ 42

*Date of Judgment: 13 November 2025*

S107 of 2025

## ORDERS

- 1. The plaintiff's application filed on 4 August 2025 for a constitutional or other writ and interlocutory relief is dismissed.*
- 2. The plaintiff pay the first defendant's costs of this application.*

## Representation

The plaintiff is unrepresented

The first defendant is represented by Australian Government Solicitor

Submitting appearances for the second and third defendants



EDELMAN J.

## Introduction

1 By an application for a constitutional or other writ and interlocutory relief, the plaintiff seeks numerous forms of final relief as well as numerous interim orders. The final relief sought by the plaintiff concerns the cancellation of the plaintiff's social security benefits by the first defendant, the Secretary, Department of Employment and Workplace Relations. The final relief sought requires an extension of time.

2 In order to achieve the final relief sought, the plaintiff seeks, in effect, to: (i) quash the decision of the first defendant on 7 November 2016 to cancel the plaintiff's Newstart allowance; (ii) quash the decision of the (then) Administrative Appeals Tribunal on 24 November 2022 that affirmed the cancellation decision; (iii) quash the decision of the third defendant, the Federal Court of Australia, on 16 February 2024 that dismissed an appeal from the decision of the second defendant; and (iv) quash the decision of the third defendant, sitting as a Full Court, on 5 September 2024, that dismissed an appeal from the decision of 16 February 2024.

3 It is convenient first to address the final relief sought by the plaintiff because if the application for that final relief should be summarily dismissed as vexatious or an abuse of process then there is no utility in any of the interim relief that is sought or in the extension of time that is sought.

4 For the reasons which follow, the claim for final relief by the plaintiff is an abuse of process and should be dismissed. The plaintiff has thoroughly exhausted the proper review and appeals process including by an application for special leave to appeal to this Court. In some instances, the plaintiff's appeals have raised many grounds or sub-grounds of appeal. This application is an attempt to relitigate the central issue by seeking relief in the original jurisdiction of this Court after the appeals process has been exhausted.

## Background

5 Part of the lengthy history of this application is summarised in a decision of the Administrative Appeals Tribunal which was included in the plaintiff's affidavit in support of this application.<sup>1</sup> A very abbreviated summary is as follows.

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1 *Manikantan v Secretary, Department of Education (Social services second review)* [2022] AATA 4051.

6 On 16 December 1996, the plaintiff first received Newstart Allowance.  
From 2004, the plaintiff received Newstart Allowance frequently although the  
allowance was regularly suspended or cancelled due to overseas absences.

7 On 7 November 2016, the Department of Education wrote to the plaintiff  
notifying him that his Newstart Allowance had been cancelled with effect from  
8 October 2016 "because you have not reported".

8 The plaintiff sought internal review of that cancellation decision. On  
29 November 2016, an authorised review officer affirmed the decision.

9 The plaintiff then sought review of the decision of the authorised review  
officer in the Social Services and Child Support Division of the Administrative  
Appeals Tribunal. On 24 March 2017, the Administrative Appeals Tribunal  
affirmed the decision of the authorised review officer.

10 The plaintiff then sought a second review in the Administrative Appeals  
Tribunal. On 29 March 2018, the Administrative Appeals Tribunal affirmed the  
24 March 2017 decision.<sup>2</sup>

11 The plaintiff then brought an appeal to the Federal Court of Australia on  
questions of law under s 44 of the *Administrative Appeals Tribunal Act 1975* (Cth).  
The plaintiff alleged 25 questions of law and raised nine grounds of appeal, each  
with detailed particulars. On 13 December 2019, the Federal Court (Abraham J)  
set aside the 29 March 2018 decision of the Administrative Appeals Tribunal on  
grounds including a denial of procedural fairness and remitted the matter to the  
Administrative Appeals Tribunal.<sup>3</sup>

12 On 24 November 2022, the Administrative Appeals Tribunal, on remitter,  
again affirmed the 24 March 2017 decision.<sup>4</sup>

13 The plaintiff then brought another appeal to the Federal Court of Australia  
on questions of law under s 44 of the *Administrative Appeals Tribunal Act*  
*1975* (Cth). The plaintiff's amended notice of appeal from the 24 November 2022  
decision of the Administrative Appeals Tribunal raised "ten purported questions  
of law, with many containing a multitude of sub-issues"; the notice was described

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2 *Manikantan v Secretary, Department of Jobs and Small Business (Social services second review)* [2018] AATA 685.

3 *Manikantan v Secretary, Department of Jobs and Small Business* [2019] FCA 2103.

4 *Manikantan v Secretary, Department of Education (Social services second review)* [2022] AATA 4051.

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as "prolix and, at times, incomprehensible".<sup>5</sup> One central issue addressed by the primary judge was a denial of procedural fairness in the making of the 24 November 2022 decision. On 16 February 2024, the Federal Court of Australia (Perry J) dismissed the appeal.<sup>6</sup>

14 The plaintiff then appealed from the Federal Court to the Full Court of the Federal Court of Australia (Collier, Raper and Shariff JJ). The plaintiff's (supplementary) notice of appeal was described as "prolix and, at times, incomprehensible" and failing "in an articulate and cohesive way, to identify the errors [said to be] engaged in by the primary judge". The notice was "65 pages in length" with "three primary grounds of appeal ... each of [which] contain[ed] multiple sub-grounds, and some of those sub-grounds contain[ed] an even greater multiple of particulars".<sup>7</sup> A central issue addressed by the Full Court was alleged breaches of the rules of natural justice by the primary judge. On 5 September 2024, the Full Court dismissed the plaintiff's appeal.

15 The plaintiff then sought an extension of time within which to seek special leave to appeal to this Court. That application was refused by Gleeson and Beech-Jones JJ on 6 February 2025.<sup>8</sup>

### **Abuse of process**

16 The class of claims that are an abuse of process is protean. It extends to "any circumstances in which the use of a court's procedures would be unjustifiably oppressive to a party or would bring the administration of justice into disrepute".<sup>9</sup>

17 It is usually an abuse of process for a plaintiff to seek to invoke the original jurisdiction of this Court by an application for a constitutional or other writ which

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5 *Manikantan v Secretary, Department of Employment and Workplace Relations* [2024] FCA 94 at [30].

6 *Manikantan v Secretary, Department of Employment and Workplace Relations* [2024] FCA 94.

7 *Manikantan v Secretary, Department of Employment and Workplace Relations* [2024] FCAFC 116 at [50].

8 *Manikantan v Secretary, Department of Employment and Workplace Relations & Anor* [2025] HCADisp 5.

9 *Tomlinson v Ramsey Food Processing Pty Ltd* (2015) 256 CLR 507 at 518-519 [25], citing *PNJ v The Queen* (2009) 83 ALJR 384 at 385-386 [3]; 252 ALR 612 at 613.

circumvents the appeals process.<sup>10</sup> That circumvention can include cases where the appeals process is not concluded and the issue can be litigated through that process.<sup>11</sup> It can also include cases, separately from instances of *res judicata* or issue estoppel, where the appeals process has been exhausted and the issue was raised, or even could have been raised, during that process but an attempt is made to relitigate the case in original jurisdiction without good reason.<sup>12</sup>

## Conclusion

18 The plaintiff's argument which is contained in materials including the application, the supporting affidavit, and the reply, is prolix and difficult to follow. At one point in the plaintiff's reply, the plaintiff asserts that the central question on this application is "whether or not the decision to cancel the [Newstart Allowance] was vitiated by a denial of natural justice due to jurisdictional error(s) or otherwise". That issue, or related issues, had been litigated in the appellate process. So too, as the first defendant submitted, other issues raised in this application have been the subject of submissions and grounds of appeal by the plaintiff in the appellate process. Examples are the alleged lack of a factual basis for an allegation by the first defendant that the plaintiff breached a mutual obligation in relation to his Newstart Allowance and issues concerning s 605(1)(a) of the *Social Security Act 1991* (Cth) and ss 68(2)(b) and 95(1) of the *Social Security (Administration) Act 1999* (Cth). The plaintiff provides no sufficient basis for this Court to reconsider issues related to those which have already been exhaustively litigated through the appellate process.

19 To the extent that the plaintiff now raises new issues, including objections to the revised special leave process in this Court or the termination of the plaintiff's employment, the submissions do not sufficiently relate to the relief sought. The plaintiff's submissions do not disclose any arguable basis for the relief sought and are vexatious and oppressive and an abuse of process on that basis.

20 The application is an abuse of the process of the Court and the final relief sought is an abuse of process within r 25.09.3(b) of the *High Court Rules 2004* (Cth). The order dismissing this application should be made under r 25.09.1,

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10 *Dimitrov v Supreme Court of Victoria* (2017) 263 CLR 130 at 138-139 [19], citing *Construction Forestry Mining and Energy Union v Director of the Fair Work Building Industry Inspectorate* (2016) 91 ALJR 1 at 8 [22]; 338 ALR 360 at 367.

11 *Dimitrov v Supreme Court of Victoria* (2017) 263 CLR 130 at 138-139 [19].

12 *KDSP v Minister for Immigration, Citizenship, Migrant Services and Multicultural Affairs* (2021) 95 ALJR 666 at 669 [3]; 392 ALR 186 at 188. See also *In the matter of an application by Sarah Jane Robinson for leave to issue or file* [2024] HCASJ 11 at [11].

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and consistently with r 25.09.2 by notification and publication of the decision and without listing the application for a hearing. The plaintiff must pay the first defendant's costs of this application.