

FEDERAL COURT APPLICATION PROGRESS

The Federal Court matter is progressing in accordance with the orders of the judge. The DFRDB recipient applicant has sent the CSC a draft statement of 'issues and facts', which are pretty short and simple. The only issue raised by the application is, in effect, the proper interpretation of section 24 of the DFRDB Act. The relevant facts are that the applicant commuted and the practise of the DFRDB Authority and now CSC is to treat commutation as permanently reducing the rate of the applicant's retirement pay. The applicant says that is the result of a misinterpretation of the Act.

The CSC has until 4pm on Friday 24 September 2021 to propose any changes to the applicant's draft statement 'issues and facts'. After that, the parties are supposed to come to an agreement as to the final statement and 'file' it - submit it to formally to the Court - by 4pm on Friday 1 October 2021. The point of the exercise is to ensure that the parties focus the Court on the heart of the controversy and isn't diverted by stuff that is irrelevant or uncontroversial.

Then the parties have to file their submissions - their arguments about the proper interpretation of the DFRDB Act. Submissions are the fundamental input to statutory interpretation proceedings.

The applicant has his submissions in near-final draft form and is just waiting to see if there's anything substantial in the CSC's proposed changes (if any) to the draft statement of 'issues and facts'. Subject to that, the applicant will file his submissions well in advance of the 4pm Friday 8 October 2021 deadline set by the Court. The CSC has until 4pm on Friday 22 October 2021 to file its submissions.

There will be a 'case management hearing' on Wednesday 27 October 2021. That's where the judge will raise issues of concern (if any) and set down a timetable for the matter to proceed to hearing.

Clinton McKenzie