



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss S C Hall

**Respondent:** Chief Constable of West Yorkshire Police

**Heard at:** Leeds

**On:** 7 June 2017

**In Chambers:**

27 June 2017 & 4 July 2017

**Before:** Employment Judge Howard

**Members:** Ms L Atkinson

Mr M Brewer

## Representation

**Claimant:** Mr J Antell, of Counsel

**Respondent:** Mr S Mallett, of Counsel

# ADDITIONAL RESERVED JUDGMENT ON REMEDY

1. The respondent is ordered to pay to the claimant compensation for unfair dismissal in the sum of £8,200 calculated as follows:
  - 1.1 Basis award £7,800
  - 1.2 Loss of statutory rights £400
  
2. The respondent is ordered to pay to the claimant compensation for discrimination arising from disability in the sum of £162,486 calculated as follows:
  - 2.1 Loss to date £57,646
  - 2.2 Future loss £22,593
  - 2.3 Pension loss £51,879
  - 2.4 Injury to feelings £18,000
  - 2.5 Uplift for breaches of ACAS (Code of Practice Disciplinary and Grievance procedures) £10,943
  - 2.6 Interest £1,425
  
3. The total the respondent is ordered to pay before grossing up in respect of the awards for unfair dismissal and discrimination arising from disability amounts to £170,686. It is necessary to gross up the amount of compensation so that, once the appropriate amount has been paid in taxation to HM Revenue & Customs, the claimant is left with the figure the

Tribunal originally intended to award. On this basis the total grossed up award is £245,481 and this is the sum that the respondent is ordered to pay.

# **ADDITIONAL RESERVED REASONS**

## **1. Introduction**

1.1 These reasons are additional to those set out in the Reserved Judgment on Remedy promulgated on 26 October 2016.

1.2 This is a hearing to determine the exact level of compensation in respect of the claim of discrimination arising from disability as a result of the parties being unable to reach agreement on the amount to be awarded in accordance with the decisions of the Tribunal as set out in the Reserved Judgment on remedy.

## **2. Compensation for discrimination arising from disability**

### **2.1 Loss to date: £57,646.**

The Tribunal has accepted the claimant's figures here. It was not the intention of the Tribunal to apply a 25% reduction to the loss to date figure.

### **2.2 Future loss: £22,593**

Again the Tribunal has accepted the claimant's figures for future loss and also has made no reduction to this sum. It was the Tribunal's intention that the 25% reduction would apply only to pension loss.

### **2.3 Pension loss: £51,879**

The Tribunal has found it difficult to determine the precise amount on the basis of the documentation that was produced at the original remedy hearing and the various submissions made by the parties. The Tribunal does accept that the respondent did raise at the original remedy hearing in August 2016 that there should be a reduction because the claimant intended to retire at 60. This is shown in the respondent's original counter schedule of loss at page 142 of the bundle and which was used at the remedy hearing on 9 August 2016. There is also mention in paragraph 10 of the respondent's submissions on remedy provided at that hearing of the need to make an appropriate allowance for early receipt of a pension because of retirement at 60. However, the respondent at the remedy hearing of 9 August 2016 provided only one figure for reduction for early receipt, namely 24% for service between 1 April 2008 and 31 March 2014. This appears at page 142 of the remedy

bundle. Although the respondent has subsequently provided a figure of 31% reduction for the period from 1 April 2014 onwards when the pension scheme changed to career average (CARE), this information was not before the Tribunal at the original remedy hearing in August 2016. In addition the Tribunal was asked by the respondent to consider documentation which was both inconsistent and not amongst that which the Tribunal had been asked to read on 9 August 2016. Accordingly the Tribunal is prepared only to consider a 24% reduction for early receipt for the period 1 April 2008 to 31 March 2014. As stated above, the respondent's counter schedule of loss at pages 141 – 144 only mentions a reduction of pension for the period from 2008 to 2014. This is stated by the respondent to be £611 per annum and would amount to £3,666. (£611 x 6) The respondent's figure at page 143 also shows a loss of gross benefits of £82, 236. The total projected gross annual pension is shown as £13,881. This would produce a net annual pension of £13,305. The anticipated actual pension of £8,007 per annum is both gross and net. The loss of annual pension is £5,298. Applying the discount rate of 2.5% and the Ogden Multiplier of 14 we arrive at a figure of £74,172. From that is deducted £5,000 as per paragraph 7.5 of the remedy judgment. A 25% reduction as per paragraph 7.1 of the remedy judgment produces a figure of £51,879 for net pension loss.

2.4 Injury to feelings: £18,000

This appears to be accepted by both parties.

2.5 Uplift for breaches of ACAS Code of Practice: £10,943

A percentage increase of 6% referred to in paragraph 7.6 of the judgment on remedy has been applied to the sum of basic award and loss of statutory rights (unfair dismissal), loss to date, future loss, pension loss and injury to feelings awards.

2.6 Interest: £1,425

The Tribunal has calculated this in the way set out in paragraph 5.11 of the judgment on remedy. Interest has only been added to the figures for injury to feelings and loss to date.

2.7 Grossing up

It is agreed between the parties that the respondent paid a sum of £137,000 to the claimant on 9 November 2016. It is clear from the email at page 20 of the bundle for the second remedy hearing that the claimant's solicitors accepted this sum as a payment on account. The Tribunal is satisfied, therefore, that the award will cover two separate tax years, namely 2016/17 and 2017/18.

2016/17

Accepting £137,000 was paid on account in the financial year 2016/17, the Tribunal have used a figure of £18,750 as the

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claimant's salary for that year as per page 139 of the original remedy bundle. That appears to be the only figure that the Tribunal has been given for the claimant's earnings in that tax year.

2017/18

There remains a balance of £33,686 net. The Tribunal has accepted the claimant's assumed salary for this financial year as £12,660. Unlike the previous financial year there will be a personal allowance which in this case will be £11,500. The Tribunal calculates that the gross figure for 2017/18 will be £42,668. The figures together produce a total grossed up award of £245,481.

**Employment Judge Howard**

Date: 21 July 2017