



EMPLOYMENT TRIBUNALS

Claimant Mr J Bassa
Respondent CGI IT UK Limited

PRELIMINARY HEARING

Heard at: Reading **On: 10 January 2018**

Before: Employment Judge Gumbiti-Zimuto

Appearances

For the Claimant: In Person
For the Respondent: Mr P Linstead (Counsel)

JUDGMENT

1. The claimant's complaints of victimisation are dismissed on withdrawal by the claimant.
2. The claimant's complaint that he suffered a detriment because of making a protected disclosure to the SFO is struck out pursuant to rule 37 (1) (a) of the Employment Tribunals Rules of Procedure 2013 on the grounds that it has not reasonable prospects of success.

REASONS

1. The claimant seeks pursues complaints of direct discrimination of the grounds race, direct discrimination on the grounds of sex and detriment because of making a protected disclosure.
2. The complaints that the claimant makes on which he seeks a determination by the employment tribunal are set out in the following paragraphs 3-10.
3. In January 2017 Matthew Mills refused to allow the claimant to make a complaint against Melanie Hobdey. Jeet Kumar asked the claimant to withdraw his complaint. The claimant alleges that this was less favourable treatment on the grounds of his race and on the grounds of his sex. The claimant will rely on hypothetical comparators.
4. On 11 May 2017, the respondent's Director Mark Benton and HR representative insisted that the claimant return to work. The claimant alleges

that this was an act of less favourable treatment on the ground so his race and on the grounds of his sex. The claimant will rely on the treatment of comparators Jeff Corney (white British) and Susan Yeung.

5. In May 2017, the claimant made a formal grievance against Mark Benton, the respondent refused to accept the grievance. The claimant alleges that this was less favourable treatment on the grounds of his race. The claimant will rely on a hypothetical comparator.
6. Throughout his employment with the respondent the claimant alleges; he was kept a low level of seniority, was not assigned suitable work for his skills, qualification and business stream, and was not paid at the appropriate wages, bonuses and pension. The claimant alleges that this was less favourable treatment on the grounds of his race. The claimant will rely on the treatment of comparators Daniel Deane and Gordon Mackie.
7. The claimant will also contend that he was required to carry out of s senior employee but was not paid the respondent in respect of that work at the appropriate level/rate. The claimant will allege this was less favourable treatment on the grounds of his race. The claimant will rely on the treatment of comparator Nigel Barlass.
8. In June 2017, the claimant contacted the Pensions Advisory Service and the Pensions Regulator. The claimant alleges that he made a protected disclosure to the Pensions Advisory Service and the Pensions Regulator, that the respondent has potentially serious finance issues – a Ponzi scheme – that there was c.£3K missing from his pension. The claimant will say that as a result of making the protected disclosure he was invited to an investigation meeting in respect of a malicious/frivolous allegation in August 2017
9. In June/July 2017, the claimant contacted the SFO. The claimant alleges that he made protected disclosures, namely that the respondent, in respect of projects for the ESA in 201 onwards, Vodafone in 2013 and DMU in 2015, was deliberately escalated. The claimant will say that as a result of making the protected disclosure he was invited to an investigation meeting in respect of a malicious/frivolous allegation in August 2017
10. The claimant says that he has not been paid wages by the respondent amounting to about £2,300. The claimant makes a claim for unlawful deduction from wages.
11. The claimant has set out in the claimant several other allegations. The claimant is not seeking a finding from the Tribunal in respect of the other matters set in his claim form. The claimant will continue to rely on the other matters alleged as part of the relevant background to the matters that have been set out above.
12. The claimant has also present a further claim form in which he makes further complaints including complaints arising about his dismissal. The respondent has not replied to the claim form at present. I made an order for further

information to be provided by the claimant and I extended the time for the respondent present response to the dismissal claim.

13. I agreed to the parties' request that the dismissal claim and the current claim are to be heard together as they give rise out of the same facts and give rise to similar issues of fact and law that will require determination by the Tribunal.

Application to Strike out the claimant's complaints

14. The claimant indicated that he was not making any claim of victimisation in this claim. The claimant withdrew the claims of unfair dismissal which I dismiss pursuant to rule 52 Employment Tribunals Rules of Procedure 2013.
15. The respondent contends that the claimant's claims have been presented outside the time limit for the presentation of complaints. I have not made any determination in respect of the jurisdiction issue that arises from the late presentation of any complaint in this claim. The issue in my view should be determined at the hearing of the claims. I take this view because in the presentation of his case the claimant will inevitably rely on the chronology of the events included in the list of issues above regardless of whether the claims are presented in time or not. Further the claimant may seek to rely on the contention that the complaints forms part of conduct extending over a period which ought to be considered as done at the end of the period which ends with the claimant's dismissal.
16. The claimant also made an application that the claimant's claims should be struck out on the grounds that the complaints have no reasonable prospect of success. Having considered the respondents submissions on the claims, save in the case of the allegation relating to the disclosure to the SFO, I am not satisfied that it can be determined at this stage on the information before me that the claims have no reasonable prospect of success and should be dismissed. In coming to this conclusion, I take into account that the claims involve allegations of discrimination or are about the making of protected disclosures. The claimant has only set out the barest detail from which a conclusion to the level of certainty required to strike out the claim cannot be reached.
17. I have however come to the conclusion that the claimant's claims have little reasonable prospect of success.
18. The claimant's complaints of race and sex discrimination have little reasonable prospect of success because the claimant does not set out an evidential basis for linking the alleged instances of less favourable treatment and the protected characteristics.
19. The claimant's complaint that he suffered a detriment because he made a protected disclosure has little reasonable prospect of success. The claimant does not set out an evidential basis for linking the alleged detriment to the protected disclosure relied. The claimant is not in a position to assert that any

relevant person acting on behalf of the respondent was aware of the protected disclosure having been made by the claimant.

20. I made the following case management orders pursuant to the Employment Tribunal Rules of Procedure 2013.

Employment Judge Gumbiti-Zimuto

Dated: 11 January 2018

Sent to the parties on:

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For the Tribunal:

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