Case Number: 2204747/2013

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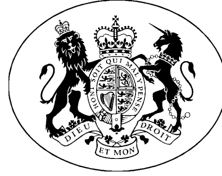

EMPLOYMENT TRIBUNALS

Claimant		***Respondents***
Mr M M Ahmed	**AND**	(1)The Embassy of the State of Qatar (2) Mr Abdullah Ali Al-Ansari

Heard at: London Central **On**: 7, 8, 11, 12, 13 and 14 March 2019

Before: Employment Judge Wade
Members: Mr P M Secher
Mr M Reuby

Representation
For the Claimant: Mr E Kemp, of Counsel
For the Respondent: Mr N Siddall QC, of Counsel

JUDGMENT

1. The Judgement of the Tribunal is that:
1.1 The claims brought against the Second Respondent are dismissed on withdrawal because he is diplomatically immune.
1.2 The Claimant was racially harassed on 8 August 2013.
1.3 The Claimant was dismissed because of his race which was direct race discrimination.
1.4 The Claimant's other race discrimination claims and his age discrimination claim are not upheld and
1.5 We make an award of injury to feelings of £8,000.

REASONS

1. The background to this case is unusual in that mid-way through the Second Respondent's cross examination on 13 March 2019, the First Respondent the only remaining Respondent, withdrew from the proceedings. A short statement was issued saying:

> "The Embassy of the State of Qatar and its diplomats are withdrawing from these proceedings with immediate effect. They consider that the proceedings infringe the sovereignty of the State of Qatar and are incompatible with the dignity and privilege of its diplomatic personnel."

Following this withdrawal, we treat the defence as withdrawn; the claim is not defended but we still have to decide whether the Claimant has made out his case.

2. We had already heard from the Claimant and heard his full cross examination. We had heard part of the cross examination of the Second Respondent. We had read the witness statements of all the other witnesses, but we had not heard from any of them. As a general comment, we did not find either of the witnesses who we did hear from to be good at answering the questions they were asked and both had to be advised regularly by the Employment Judge to listen to the questions and not to tell us what they thought we wanted to hear. So the decisions we have had to make were difficult as sometimes we did not really have any reliable oral evidence to go on. As urged by Mr Kemp, however, we do of course put much weight on the contemporaneous documentary evidence that is available.

3. There was a point raised by the Respondent in its defence relating to the jurisdiction. As the defence is now withdrawn we just comment briefly that we do not consider that to be a sustainable point as the question here is whether the Respondent is liable through the actions of its employees under s.39 of the Equality Act.

The facts

4. We have produced a fairly curtailed version of our findings of facts given that the claim is undefended and that we have not been able to hear all of the evidence.

5. The Claimant is a UK citizen and has been in the UK for twenty years. He bases his race claim upon the fact that he is of Somali origin and describes himself as black.

6. He began a second period of employment with the Respondent as a night security officer on 1 April 2004. By that stage Mr Ghoneim had already been employed by the Respondent for some years in a role equivalent to finance director. We mention him particularly because he is approximately the same age as the Claimant, he is Egyptian not Qatari and the has had a long career unimpeded by his age. He would probably not describe himself as black.

7. The Claimant says that in late 2006, the Respondent says in June 2007, it does not really matter when, the Second Respondent arrived in London as the medical attaché, head of the medical centre, which is part of the Embassy of Qatar, providing medical treatment to Qatari citizens in London. We find that the Claimant's contract of employment was not reflective of all his duties, he did additional driving work for the centre and he soon started to take on private work for the Second Respondent, this consisted for example of grocery shopping at

Sainsburys, dropping off dry cleaning, school trips for his children including at weekends and also at night.

8. Unfortunately, the Claimant tended to make generalised allegations, for example he repeatedly said he was forced to work 24 hours when what he meant was that he was on call for 24 hours, but he was not able to be more specific. It is inherently unlikely that he worked for 24 hours or that he was forced to do so. We observe that he had a good financial deal in that he was at least well tipped if not paid by the Second Respondent in addition to his salary and he lived rent free at the medical centre.

9. The date from which the Claimant said he started to experience discrimination was very hard to discover. In his ET1 he said he experienced discrimination as soon as the Second Respondent arrived but in his evidence he said that the problem did not occur at first and that maybe his ET1 was mistaken. He says that the Second Respondent treated him like a servant and that he lived in fear of him because he was treated just as a commodity. We have to say that we were not able to locate any contemporaneous evidence of the Claimant living in fear and indeed his son, Rashid, who also worked for the Respondent only noticed a change in the Claimant's behaviour from 2012. However, we have no doubt that the Second Respondent behaved in an imperious way to all his staff and treated the Claimant like a servant.

10. Our difficulty is that we have not been able to locate any evidence that Somalis and black people were singled out and Rashid gave evidence of pale skinned Egyptian staff also being treated abusively and reduced to tears. Indeed, the Second Respondent treated the Tribunal panel, all white people, with disregard and failed to take on board the clear and polite advice that he needed to comply with the Tribunal process and answer the questions, so we ourselves experienced to some degree his imperious behaviour.

11. The Claimant says that from 2008/2009 the verbal abuse began and says he was called "donkey" by the Second Respondent and that donkey is a derogatory but also a racist term. He also agreed that it meant stupid and our finding is that is more likely that at that time that the term was used to mean that he was stupid. Indeed, it seems to be a fairly international term of mild scorn; in the UK we tend to call people a "silly ass". The Claimant also says that he was called "dog", and again that it an abusive and racist term and one reflective of a power relationship and a degree of scorn on the part of the Second Respondent. We do not identify an association with the Claimant's race at that time.

12. Also in 2009, the Claimant was called "old man". At that time he was around about 69 years old and he says that this denoted that he was vulnerable and exploited but we note that it was the only potentially ageist comment made and it was said only once back in 2009. What is notable about the Second Respondent's employment is that they did in fact successfully employ a number of older people. The Claimant also says that he was called dirty and that the term related to his skin colour.

13. We deal with the specific allegations in our findings below but just mention one incident when the Second Respondent is said to have been angry ans called the Claimant a dog when he did not open the medical centre when he arrived there at about 8:30 in the morning. The Claimant says he did not have to open the doors before 8:30 and having heard the available evidence we find that this issue between the Claimant and the Second Respondent was to do with the doors and not the Claimant's race. Clearly the Second Respondent did not behave respectfully towards the Claimant, but that does not mean that he behaved in a racially discriminatory or harassing way.

14. It is notable that in 2009 the Claimant helped someone called Mr Hussein, also of Somali origin, to get a job as a driver for the medical centre so he cannot have thought it such a bad place and it does not seem that Mr Hussein ever heard reports from the Claimant about abuse which might have been expected. It is particularly notable that in January 2010 and through the Claimant his son Rashid also started working as a driver. Rashid said he thought that it would be a good place to work and it is surprising that the Claimant was prepared to expose his son to what by that time was allegedly constant racist abuse. Rashid was very frank with us that he did not suffer such abuse and the Claimant says that the reason was that he was removed from daily contact with the Second Respondent. That is possible but we still question why the Claimant would take the risk of subjecting his son to such an environment.

15. Rashid also tells us that the Second Respondent was variable in his behaviour, sometimes he would be polite, and that contrasts with his father's evidence that he was the victim of constant abuse. We consider it more likely that an imperious person, who becomes angry when staff do not do what they want them to do will sometimes be friendly and sometimes not whereas we would expect consistently bad behaviour if it was due to conscious or unconscious bias towards black or Somali or older staff.

16. In 2011 the Claimant went to seek medical attention for a bad shoulder and we just highlight the fact that he had a bad should from at least 2008 and he cannot lay at the Respondent's door all of the problems that he had with his shoulder. He also says in his claim that the treatment by the Second Respondent from 2008 made him fell stressed and depressed, he had to take regular pain killers, he had pains in his heart and chest, irregular and fast heartbeat. This is not mentioned in his GP notes at all and we find it likely therefore that Claimant has exaggerated the symptoms that he experienced. He says in his evidence that he told the GP all his medical problems and certainly the GP notes show a very large array of visits and medical problems that were discussed with the GP. It is therefore unlikely that the Claimant's explanation for not mentioning these problems to his GP, which was that he decided that he needed to self-medicate, is sustainable. It just does not make sense that for serious problems like heart and chest pains the Claimant did not go to see the doctor whereas it is regularly recorded that he went when, for example, he had a rash on his face.

17. The Claimant says in his witness statement that from 2011-2013 the treatment got worse and he was subject to almost daily abuse this is not

consistent with statements of his that he was already suffering daily abuse from 2009. He says he was regularly called donkey, dog and dirty one. In his claim, the ET1, which is the foundation of his complaint and prepared following legal advice the Claimant said that he started being called “Abd”, a racist term which means black slave, also translated as nigger, from 2011. However, now in his witness statement the Claimant says that the term was only used once, by the Second Respondent, in August 2013.

18. The Claimant was not able to explain why that really quite serious mistake was made in the ET1. We think it is surprising that he did not mention the constant abuse that he says he was suffering to his family, to the Ambassador or to his friends, relatives and colleagues at work, some of whom had come into the work through his introduction. He says that some of these people saw the abuse he was suffering for themselves and yet there is no convincing and consistent evidence of the Claimant being subjected to the abuse that he asserts.

19. So, in 21012 the Claimant was living in the medical centre in the basement. He was in one studio flat that had been refurbished for him and was living rent free. It is inevitable that because he was living there he generated a certain amount of rubbish and there seems to have been discussion about a mouse problem that allegedly arose because the Claimant would leave rubbish in the internal walkway. He said that rubbish collection was not part of his job but it seems likely that when there was an argument between himself and the Second Respondent at Ramadan mid August 2012 about rubbish. The Claimant said in his statement that he told the Second Respondent that he would move the rubbish and did not say at that stage that he had told the Second Respondent it was not in his job description. The Claimant says that the argument escalated and the Second Respondent hit him (according to the E1) or pushed him (according to his witness statement) and called him a donkey, a dog and dirty. In his live evidence the Claimant said that he was hit with a clenched fist so we wonder why he said “pushed” in his statement which is a different action altogether and far less aggressive. The Claimant did not explain when questioned why the difference occurred.

20. We understand that a number of witnesses heard comments from the Second Respondent about the Claimant being dirty which they understood to be about the rubbish. We think that the most likely explanation for the altercation in August 2012 was that it was about rubbish and not about race. Also, we find that there was no assault in August 2012. There is no evidence of an assault. The Claimant says he was shocked but he did not go to his GP and, most telling of all, when he was hit or pushed in 2013 he did not once refer to an earlier assault in 2012. It is not credible that if the assault in 2012 happened the Claimant would have made no reference to it. He had his MP and his solicitor send letters and, most importantly, he went to the police but did not mention he was the victim of a second assault. We find it unlikely that the Claimant would have held back that piece of information because it was clearly relevant and important evidence for the police that the Claimant was the victim of a second assault rather than a one-off. The Claimant told us that because he got better he did not think about this assault again, but in the light of his regular contact with his GP

and of his making a formal complaint to the police, we do not find that that is a satisfactory explanation.

21. We come then to 8 August 2013. This was the start of Eid and just the end of Ramadan. At this point the Claimant was aged about 73. It was a big day at the medical centre and important people including ambassadors were going to be attending the mosque on that day as was traditional. The Second Respondent arrived and was annoyed that the area in which people were going to worship was not prepared; carpets needed to be cleaned and spread across the floor and he regarded that as at least partly the Claimant's job. The Claimant was unrepentant and said he had not been asked to do it and it was not his job.

22. We find that what happened was that the Second Respondent then called the Claimant "abd", for the first time and, as I have said, our understanding is "black slave". We find that this was said because the Claimant has been consistent in his evidence on this, there is no evidence against that being said, and, most importantly of all, the fact that this was said was reported contemporaneously and consistently to the police.

23. We also find that the Claimant was pushed by the Second Respondent, again there is contemporaneous evidence from the police and the Claimant's GP. The Second Respondent agrees that the Claimant was called a donkey by him on that day due to annoyance. The Claimant says that the Second Respondent then dismissed him and when he tried to put things right the Second Respondent did not accept his gesture. The Respondent says that later that day the Claimant agreed to return to work, but having looked at the extremely complicated and mutually contradictory evidence, including two conflicting statements from two of the individual witnesses, we find that the Claimant understood himself to be sacked that day. See for example his conversation with his GP on 5 September. Tellingly, Mr Ghoneim's witness statement corroborates that on the Respondent's side they considered that the Second Respondent sacked the Claimant in a moment of anger. Mr Ghoneim records that he contacted the Claimant to say he had not been fired and he could return to work and so this implies that both the Claimant and Mr Ghoneim understood that there had been a dismissal.

24. A few days later, on 11 August, with the support of his son Rashid the Claimant went to hospital. The hospital records record that the Claimant was pushed and not hit and, as I have already said, we do not accept that the two terms are interchangeable. The likelihood of the Claimant being pushed not hit is supported by the hospital records which record a diagnosis of upset and insomnia but do not mention shoulder pain at all. They do record that the Claimant was sacked. He tells us that he was given painkillers and physio but there is absolutely no evidence from the hospital, and the prescription was for sleeping pills. The Claimant's only explanation was that the hospital doctor had written it all down wrong, but we find that highly unlikely.

25. On 12 August the Claimant reported an assault to the police and gave a statement. He endorsed a hand-written report written for him by his son at the time of the incident; the Claimant's son Rashid speaks perfect English and

therefore accurately communicated what his father wanted to say to the police. It is interesting that Rashid's original note says that the Claimant was "hit" whereas the police report records that he was "pushed" and the answer is that the action which was describe

26. ed by him and Rashid and demonstrated to us was a was push with the ball of the hand rather than a hit with a clenched fist. He also reported to the police that he was called "nigger" by the Second Respondent.

27. The Claimant returned to the police station on 13 August with some additional material and again the police recorded no visible injury as a result of the push on the shoulder, and again no further medical treatment was required. However, the Claimant visited his GP on 12 August at which pain was recorded and tramadol was prescribed for a month. On 21 August, very possibly because the drugs were assisting the Claimant reported to his GP that the pain was improving. The GP referred him for physiotherapy on 5 September.

28. On 19 August the Claimant and his son went to solicitors and a letter before action was written alleging that the term nigger was used. Rather confusingly they record not that the Claimant was pushed, not that the Claimant was hit, but that he was slapped very hard on his back, and that reinforces our conclusion that was happened was not what we would call a hit.

29. The letter before action also rather confusingly says that the Claimant was both fired on the spot and that this was repeated on 10 August, which is evidence that does not appear anywhere else. When asked to explain, the Claimant simply said that his solicitors were wrong, which opens up and whole set of other questions which we did not pursue. Indeed, in his witness statement the Claimant says that he was given notice that he was not sacked on the spot but was told on 8 August that he would be finishing on 13 August. He has produced evidence that the centre was in fact closed between the 8-13 August and so there is no material difference between being dismissed on 8 and on 13.

30. A number of covert recordings were made of conversations which took place after the letter before action. To us the letter before action is extremely significant in that once solicitors get involved overtly in a process, all normal employee relations fly out of the window and people are in defence mode. The solicitors apparently advised the Claimant's side that it would be a good idea to make the recordings and they have been provided and translated for us. One recorded comment was of the Second Respondent saying to Rashid "shame for you and your country, for your nationality".

31. On 2 October an ET1 was issued and there has been a very significant delay between the ET1 being issued and this hearing. This has been due to the long and complex litigation culminating in a Supreme Court hearing where it was decided in a case called *Benkharbouche* that state immunity was contrary to the Human Rights Act and also to the European Charter. The Supreme Court made a declaration of incompatibility with the Human Rights Act but the Tribunal still does not have jurisdiction over claims that rely on the Human Rights Act right to a fair hearing under Article 6. This is because the government has not issued a

remedial certificate amending the State Immunity Act. However, claims which are based on European-derived rights such as discrimination can proceed because of the direct effect of the European Charter and that is why we are here today.

32. We are particularly here today because of the Claimant's desire to have this matter concluded before Brexit, whenever that is in fact gong to occur so I am giving the decision to you this afternoon as requested. We do not know what is going to happen to the applicability of the European Charter post Brexit but as at today it is directly effective and has the effect of enabling a Claimant to come to this Tribunal to assert discrimination.

33. We record a couple of other things before we come on to the conclusions. The first is that, the Claimant has a personal injury claim as part of his remedy claim and that relates to severe stress and anxiety, pain in the shoulder, insomnia and that he now talks to himself. We are not making a decision on the extent of a personal injury today but record that as we have already said the Claimant has had shoulder pain for a long time, long before the alleged assault on 8 August 2013 and we have found that there was no earlier assault in 2012. The GP records from 12 August 2013 support our finding that the Claimant's assertion about the extent of the assault was exaggerated:

a. He was pushed not hit,
b. He says he suffered severe pain in the GP records but he was only prescribed medication of a month
c. Even that extent of harm is not corroborated by the hospital or by the police.
d. He was not prescribed medication of physio by the hospital
e. Both the sleeping pills and the tramadol were short term.
f. The GP recorded that the shoulder was feeling better on 21 August. The tramadol was not repeated after a month although he was referred to physio by his GP.
g. The Claimant made various visits to his GP for the rest of the year but the next reference to his should problem was on 22 April 2014 and
h. There was no mention of psychiatric or psychological problems to the GP.

34. In 2016 Rashid Ahmed left the Respondents employment. He says that he was sacked because of his father's case, but the litigation was in abeyance in 2016 and there is no corroborating evidence to suggest that the dismissal was related to the case.

Conclusions

35. The Claimant's ET1 was not helpful in that it did not provide comparator information about people in similar circumstances being treated differently because of a different age and race, nor does it say that people of the same age or race as the Claimant were treated as badly as he was. In fact it is notable that the Respondent employs and continues to employ people both of the same race

as the Claimant and of the same age group. Also, after a letter before action, and particularly after an ET1, further actions of the Respondent would much more likely to have been motivated by the impending litigation and their response to that rather than by the Claimant's race or age. Therefore there is no evidence of a general discriminatory state of affairs.

36. We appreciate Mr Kemp's very concise and helpful submissions and, like him, we are going to start with the allegations relating to August 13 as that date is the core of the case.

36.1 The first question, allegations I-K in the list of issues, is did the Respondent called the Claim "abd" which we translate as black slave on 8 August 2013? Our conclusion is yes, he did. All the contemporaneous evidence points to that and it was racial harassment in that it is unwanted conduct related to the Claimant's race and a word as extreme as that will have violated his dignity.

36.2 Were the comments made to the Claimant on 8 August: donkey, dog and indeed the push unwanted conduct related to the protected characteristic of race? Our conclusion is yes. This conduct had the purpose or effect of violating the Claimant's dignity or creating an intimidating hostile, degrading, humiliating or offensive environment which is harassment under the Equality Act s.26. In the context that the Claimant was at the same time being called "abd", these words were part and parcel of the same abuse related to race and were racial harassment.

36.3 Did the Second Respondent dismiss the Claimant on that day? Our answer is yes. Although there is considerable conflicting evidence, on balance we find that there was a dismissal. That was the contemporaneous evidence to the police and to the hospital as well as the Claimant's evidence, the Claimant reported this to his GP some weeks afterwards as well. Mr Ghoneim who is a loyal witness for the Respondent also recalled the incident as if the Claimant had been sacked. We were particularly struck by the fact that the covert recordings corroborate this point, in fact it is very troubling that part of the recording where Mr Ghoneim said that the Second Respondent "didn't mean to sack you" was not transcribed by the Respondents when they produced the original transcript. The Claimant's side very observantly spotted that and went back and amended the transcript to include that passage so that is very compelling evidence.

36.4 The next question is did the Second Respondent dismiss the Claimant because of his age or race? Our answer is that he did not dismiss the Claimant because of his age but he did dismiss him because of his race. Again, the use of the word "abd" is part and parcel of the incident and it demonstrates that the Second Respondents behaviour at that time was partly motivated by a race-related scorn, for want of a better word, of the Claimant and also because of his race valued him so little so that he was prepared to terminate him on a whim. It is of course the law that race need only be part of the motivation as long as it is an active part. We consider that the Second Respondents also had a general attitude of imperiousness towards his

staff but on this particular occasion part of the Second Respondent's behaviour was his bias against the Claimant's Somali race and his colour.

37. We have been asked to look back at the other earlier alleged incidents and see whether in the light of these findings other language which may not be considered to be racial harassment or direct race discrimination on the face of it was in fact in breach of the Equality Act. We have done that but we have not found that there was discrimination or harassment in the events that occurred before August 2013. As we have already said, we have not been helped by the Claimant's evidence which we are not able to take at face value because we have found it has been exaggerated. A small point perhaps, but the Claimant simply was not able to give us a straight answer when we asked him whether he really meant that he was being made to work 24 hours a day. He was also not able to explain to us why it was recorded that he was pushed rather than his version that he was hit. Probably most significantly of all he really was not able to explain to us why his GP notes do not support his assertions about the various stress, anxiety and pain he suffered.

38. So, the short answer to allegations A-H is that when applying the harassment test: "was the conduct related to a protected characteristic which had the purpose or effect of violating dignity or creating an intimidating hostile degrading humiliating or offensive environment?" we do not have evidence that the threshold set out in s.26 was met. We are sure that the Claimant was upset when he was called donkey, who would not be, but the elements required to demonstrate racial harassment are not there. They are not there in the GP notes, or in the contemporaneous witness evidence, the Claimant encouraged his son to work for the Respondent during that precise period and his son did not notice a change in his behaviour until 2012.

39. The Claimant very possibly did fear for his job, and also for his home, but that is not the same as being racially harassed. Indeed, the fact that he was given free accommodation would be a reason why he would willingly engage in doing jobs for the Second Respondent who had organised a specially converted studio flat for him. So, our observation of the Claimant's response, or perhaps lack of response, to the Second Respondents behaviour before August 2013 leads us to conclude that the behaviour was not harassment.

40. The Claimant pleads in the alternative that the behaviour was direct discrimination, less favourable treatment than a comparator because of race. We have already mentioned that the Claimant has not provided actual comparators and in fact we have seen that there was also bad behaviour by the Second Respondent to people of different races from the Claimant. We are not able to find that there was direct discrimination before August 2013 partly because the dates and the incidents alleged are vague. Also, taking a common-sense approach, the Second Respondent's behaviour as alleged was much more likely to have been triggered by irritation at specific behaviour rather than being less favourable treatment because of the Claimant's race. The circumstances in which the Claimant did his private work for the Second Respondent were quite specific and likely to cause difficulties with an imperious employer. We have no

doubt that the Second Respondent was imperious and likely to be intolerant towards all those who did not obey his demands as we have seen his behaviour towards the Tribunal.

41. Very briefly going through the allegations A-H:

41.1 Allegation A is a general allegation of increasing workload and regular demands that the Claimant work outside his contracted hours. We quite agree that the Claimant worked outside his contract employment; all the signs are that he was willing to do the work that he was asked to do in return for living rent free on site and we consider that a white 25 year old would have been treated the same if they had had free accommodation and been willing to do private work for the Second Respondent and be on call.

41.2 Incident B is an incident about the Second Respondent becoming demanding and calling the Claimant donkey after a request that the Claimant go and get him some coca cola. We have to say that the Second Respondent wanting some coca cola and insisting on a speedy service was much more likely to be the reason why he called the Claimant a donkey and ditto allegations C and F.

41.3 The only specific age related phrase that the Second Respondent is said to use was when he called the Claimant old man in 2009; clearly as a free-standing event this would be out of time. Our general observation that the Claimant was not intimidated or undermined to the extent of being harassed very much applies here. It is indeed a feature of the Respondent’s work place that there were a number of older employees who did not seem to experience problems. Mr Ghoneim was the same age as the Claimant and a key member of staff. Yusuf was the Second Respondent’s other driver, a little bit younger than the Claimant but in the same age group and also Somali and he continues to be employed by the Respondent. So basically, this incident does not give us sufficient information or concern to extrapolate that other incidents were because of the Claimant’s age as direct discrimination or harassment. We know that there was a conversation after the Claimant was dismissed between Rashid and the Second Respondent which was covertly recorded in which the Second Respondent said something along the lines of “nobody needs your father in this job because he is 80 years old”. The Claimant says these are ageist comments, but we do not think that there actually on the face it untrue comments in that it is unfortunately the case that older people do struggle to find work and are generally encouraged to retire at that age albeit that that is against the law. So, we do not think that that gives us enough material to infer back a number of years that there was age discrimination.

41.4 We move on to allegation E which was about the Claimant not opening up the medical centre when the Second Respondent wanted to get in. Again we agree that this was imperious and

impatient behaviour, but it was related to the Claimant not opening the doors and not to less favourable treatment because of race.

41.5 Allegation G is of regular abuse but is too vague for us to be able to make findings, particularly because the Claimant was evasive and inconsistent on what when and why abuse took place.

41.6 Allegation H was about abuse and a push or a hit in 2012 and we have already explained that we do not find that the Claimant was pushed or hit. This is an example, unfortunately, of exaggeration as this was just an incident where the Second Respondent lost his temper about rubbish in the building; very possibly he should not have lost his temper but that does not make his actions discriminatory.

42 So, in summary, the Second Respondent's behaviour boiled over in 2013, he went beyond his usual imperious behaviour into racially related language and actions, which is why we found for the Claimant in relation to the August 2013 incident.

43 We have been asked to make an award of injury to feelings and the factors that we have taken in to account when awarding £8,000 are that the Claimant did not suffer a protracted or an ongoing campaign of race discrimination or harassment. He was however abused explicitly once, on 8 August 2013 and he was dismissed partly because of his race. We have noted that the sleeplessness abated within a month, or at least the medication ceased, and there is a notable absence of evidence of psychological distress beyond sleeplessness. Overall, since we have noted the claimant's tendency to exaggerate at times this has been balance against the evidence that he has provided on injury to feelings.

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Employment Judge Wade

Dated: 28 March 2019

Judgment and Reasons sent to the parties on:

8 April 2019

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For the Tribunal Office