



EMPLOYMENT TRIBUNALS

Claimant: Mr A Duyile

Respondent: The School of Oriental and African Studies

Heard at: London Central

On: 18 to 24 July 2019

Before:

Employment Judge Henderson; Mrs L Moreton and Ms C Ihnatowicz

Representation

Claimant: In person

Respondent: Ms R Thomas (Counsel)

JUDGMENT

It is the unanimous decision of the Tribunal:

Jurisdiction/time limits

1. The Tribunal finds that all the discrimination claims are out of time as set out in section 123 Equality Act 2010 (EA) except for (i) the dismissal on September 2018. (including the conduct leading from the Investigation, to the First and Final Warning and then to the dismissal) (ii) the claims relating to the failure to promote the claimant as says this continued up to the date of termination of his employment in September 2018.
2. The Tribunal exercises its discretion to extend time on a just and equitable basis as regards the claim for failure to make reasonable adjustments and has jurisdiction to hear that claim.

Unfair Dismissal- section 98 ERA

3. The claimant's dismissal was fair in all the circumstances. The unfair dismissal claim is dismissed.

Direct race discrimination (section 13 EA)

4. The claimant's claims for direct race discrimination do not succeed and are dismissed.

Indirect race discrimination (section 19 EQA)

5. The claimant's claims for indirect discrimination on grounds of race do not succeed and are dismissed.

Indirect disability discrimination (section 19 EQA)

6. The claim for indirect race discrimination does not succeed and is dismissed.

Failure to make Reasonable Adjustments (section 20 EQA)

7. The claim for failure to make reasonable adjustments does not succeed and is dismissed.

Unlawful Deduction of Wages (section 13 Employment Rights Act 1996 (ERA))Payment in Lieu of Notice

8. The claimant was contractually entitled to 3 months' payment in lieu of notice upon termination of his employment. This sum was agreed by the parties as being £8,934 (gross) including London Weighting.

Holiday Pay

9. The respondent accepted that as at the EDT on 24 September 2018 the claimant had accrued 25 days' untaken annual holiday. The parties agreed the sum due as £ 3426.80
10. The total sum due to the claimant is £12,360.79 (gross). However, the Tribunal found that the claimant had already received an overpayment relating to sick pay of £15,006.23 (gross) during his period of unauthorised sickness absence after the end of February 2018. Therefore, any monies payable in lieu of notice and holiday pay were set off against the overpayment of sick pay. These were not unlawful deductions of wages by the respondent as the claimant's contract of employment consented to such deductions in the case of overpayment by the respondent. There was no monetary award made to the claimant.

Breach of Contract - Voluntary Severance Schemes

11. The Tribunal had found that the VS Schemes were not contractual and this claim does not succeed and is dismissed.

Protected Disclosures

12. The claimant withdrew this claim and it is dismissed accordingly.

Respondent's counterclaim

13. The respondent withdrew the counterclaim and it is dismissed accordingly.

The Tribunal's detailed Reasons for reaching this decision were delivered to the parties on 24 July 2019. Neither party requested that the Reasons be given in writing.

Employment Judge Henderson

Date 24 July 2019

JUDGMENT SENT TO THE PARTIES ON

25 July 2019

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FOR THE TRIBUNAL OFFICE