



Case Number 1305494/2018
& Others (See
attached list)

EMPLOYMENT TRIBUNALS

BETWEEN

**Claimant
Mr AG Badita**

AND

**Respondent
C.T. Group
Recruitments
Limited & 46 Others
(See
attached list)**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL ON A PRELIMINARY HEARING

HELD AT Birmingham **ON** 20 & 21 November 2019

EMPLOYMENT JUDGE GASKELL

Representation

For the Claimant: In Person
For the Respondent: Mr J Feeny (Counsel – representing James Andrews Recruitment Limited & Venn Group Limited and 29 other representatives for other respondents - see attached list)

JUDGMENT

The Judgment of the tribunal is that: -

- 1 The claimant's application against each of the respondents for specific disclosure of documents is refused.**
- 2 The claimant's claims against the respondents on the attached list are scandalous; vexatious; and have no reasonable prospect of success. And the manner in which the claimant has conducted the proceedings has been scandalous; unreasonable; and vexatious. Accordingly, each of the claims against the 47 respondents listed are struck out by the tribunal pursuant to Rule 37(1)(a) and (b) of the Employment Tribunals Rules of Procedure 2013.**

REASONS

Introduction

1 On his own account the claimant has presented more than 100 claims and today he tells me "*there are more to come*". Today I am dealing with claims against 48 respondents presented in the Midlands West Region. This judgement deals with the claims against 47 of those respondents: earlier today I dealt separately with **Claim Number 1305765/2008** against **DHL Supply Chain Limited** (DHL); that claim was struck out for want of jurisdiction. The claimant has presented further claims in this region which have not been processed in time to be linked to this hearing and will no doubt be considered at another hearing at a later date.

2 The claim against DHL had been specifically listed for an Open Preliminary Hearing (OPH) to consider the question of jurisdiction and the respondent's application for strike-out/deposit. The remaining claims were listed for a Closed Preliminary Hearing (CPH) for case management purposes. The OPH involving DHL was heard as listed at 10am – the claimant did not attend. The CPH was listed to commence at 2pm: the claimant attended along with a total of 35 representatives for various respondents. One and a half days hearing time had been allocated to the CPH.

3 All of the respondents wished to apply for the strike-out of the claimant's claims against them pursuant to Rule 37 of the Employment Tribunals Rules of Procedure; all wished, as an alternative, the tribunal to consider ordering the payment of a deposit pursuant to Rule 39 and some of the respondents were raising jurisdictional objections (time limits) to the claims against them. The respondents either through their response forms or otherwise in writing had given ample notice to the claimant of the applications they wishes to make. But those applications had not been specifically listed for today's Hearing.

4 I considered the provisions of Rules 53 and 54: pursuant to Rule 53(3) the strike-out applications and any jurisdictional objections were clearly within the definition of "preliminary issue"; pursuant to Rule 54 the claimant was entitled to at least 14 days' notice specifying that such preliminary issues were to be decided at today's hearing. I also considered the provisions of Rule 5 giving me a discretion to shorten any time limit specified within the Rules. I was invited by the respondents to proceed with their applications today notwithstanding lack of formal notice to the claimant. I invited submissions from the claimant who expressly consented to my hearing the applications for strike-out/deposit and if appropriate jurisdiction. In the light of the claimant's consent, and in pursuance of

the overriding objective, 34 respondents' representatives having attended today's Hearing, and sufficient time having been allocated, I converted the CPH to an OPH and heard the strike-out/deposit applications. In the event it has not been necessary to hear the jurisdictional applications.

The Claims

5 The claims are a near identical terms: the respondents in the main recruitment companies with one or two respondents who were engaged in direct recruitment. The case asserted by the claimant can usefully be summarised as follows: -

- (a) Previously, he was unfairly dismissed by DHL and since then he has been blacklisted as a sex offender.
- (b) He has applied for and been rejected the various position by online applications to recruitment and other companies. His case is that he has been unsuccessful because of the above blacklisting and in some cases because it became known that he was Romanian.
- (c) That the rejection of his applications amounted to direct discrimination on the grounds of race and/or victimisation on the basis of his claim against DHL.

6 The case is expanded by allegations made by the claimant in a variety of emails sent to the tribunal and the respondents to the effect that there is an international conspiracy involving Mrs Angela Merkel (Chancellor of Germany); two British Prime Ministers (Mrs Theresa May and Mr Boris Johnson); Mr Paul Dyer (former CEO of DHL); Mr John Gilbert (former CEO of DHL Supply Chain Global) and Mr Frank Appel (CEO of Deutsche Post DHL Group). Throughout the claim forms, correspondence and emails, the claimant frequently refers to Mr Appel as "*Dr Sex*". In his emails the claimant alleges that British judges have been bribed: in particular Employment Judge Butler (Midlands East Region); Employment Judge Segel QC (London Central Region); Judge Brian Doyle (President of the Employment Tribunals); and the judges of the Employment Appeal Tribunal. He makes similar allegations against the Information Commissioner and the President and judges of the First-tier Tribunal (General Regulatory Chamber). Because of these bribes, the judges have conspired to obstruct and delay the claimant's legitimate claims and strike them out unlawfully. During the course of today's hearing, the claimant suggested that Mr Boris Johnson was sitting in my retiring room waiting to pay me for today's services to the conspiracy.

The Claimant's Application

- 7 The claimant applies for a disclosure order under Rule 31 for each of the respondents to disclose to him all information that they hold about him. From reading the papers it would appear that he has made Subject Access Requests to the respondents; that he has complained about failure to comply with such requests to the Information Commissioner; that his applications to the Commissioner have been unsuccessful; as have his onward appeals to the Firsttier Tribunal. I explained to the claimant that disclosure within Employment Tribunal proceedings differed from the general right of disclosure which may apply in a Subject Access Request. I would only order disclosure of documents which appeared to exist and to be relevant to the issues to be determined in the case. Disclosure in Employment Tribunals was not an opportunity for a general trawl of documents held by the opposing party.
- 8 My judgement is that the claimant's application is premature. At this stage, it is not known what the precise issues in any of the claims might be if it is allowed to proceed to trial. Within general case management, directions for disclosure would be made and an order of the type now sought by the claimant would ordinarily only be granted if it appeared that disclosable documents were not then provided.
- 9 For these reasons I refuse the claimant's application.

The Respondents' Applications and Submissions

- 10 I heard oral submissions from 11 of the respondents' representatives present at the Hearing. The submissions made were then formally adopted by the remaining 23 representatives who had nothing further to add. I am grateful to the 11 for the clear, helpful and succinct submissions which I heard. And equally grateful to the 23 who did not feel constrained to repeat arguments which had already been presented so clearly.
- 11 Mr Feeney addressed me first: and, in careful but concise submissions, covered much of the ground applicable to all respondents. Mr Feeney dealt first the claims themselves – addressing his submission to the provisions of Rule 37(1)(a): -

- (a) He submitted that the claims were speculative and highly implausible: founded as they were on the proposition that DHL were in a position to impose a worldwide blacklist preventing the claimant from securing employment. The

proposition was even more fanciful when it was expanded to include high-ranking politicians in the British and German governments. In none of his pleadings, did the claimant provide any basis for his assertion that any of these respondents were connected to DHL. He merely repeated the assertion that there was a worldwide conspiracy.

(b) The speculative nature of the claims was amply demonstrated by the fact that there were more than 100 claims. The claimant brought a claim against every employment agency or employer that he had made an unsuccessful application to. In his own mind he did not allow for the possibility that any of his applications may have been refused for good reason. In his communications with the tribunal the claimant seeks to reverse the primary burden of proof stating that the respondents have an obligation to prove the reasons for refusing him employment. This approach is contrary to law: the claims do nothing more than to assert the claimant's Romanian nationality and his perceived unfavourable treatment - namely unsuccessful applications for employment.

(c) The claims were incoherent: there was no clear basis to suggest that the claimant's rejection (or more correctly lack of success) in his applications to the various respondents had any connection to his Romanian nationality. Indeed, on the claimant's own pleading he had been blacklisted as a "*sex offender*". Being a perceived sex offender is not a protected characteristic under the provisions of the Equality Act 2010.

(d) The claims are scandalous and vexatious because of the extremity of the allegations. Made as mere baseless assertions with no basis upon which they could be found to be true. And because they appeared to be made without any expectation of success but merely to harass the respondents and somehow expand the claimant's resentment of DHL.

12 Mr Feeney then went on to deal with the manner in which the proceedings were being conducted by the claimant addressing the provisions of Rule 37(1)(b):-

(a) Mr Feeney took me to emails from the claimant addressed to the respondents and to the tribunal dated 5 and 13 November 2019. In the emails the claimant furthers his allegations that Mr Appel is currently protected by Mrs Merkel that Mrs Theresa May, when Prime Minister of the UK had unlawfully postponed the hearing of his claims. He states that Mr Appel had bribed the European Commission and the UK, German and Romanian governments to prevent the claimant exercising his civil rights. He makes threats that each of the respondents will be charged with

- perjury unless their defences to his claims are withdrawn. And he demands wide reaching disclosure of information. The claimant describes Mr Paul Dyer (former CEO of DHL Supply Chain UK/Ireland) as a mentally retarded individual compared with the claimant. The claimant alleges that the respondents have bribed judges in the Employment Tribunal and in the Employment Appeal Tribunal. The claimant also describes Mr Oliver Greasley (in-house counsel for DHL) as a “stupid crook”.
- (b) In documents attached to that email the claimant refers to the “final solution” being used against Mr Appel - which Mr Feeney submits is a particularly abusive and troubling remark to make towards a German citizen. The claimant describes Employment Judge Butler as a “cheap crook” who has been bribed and who has an IQ composed of only two digits. In a Notice of Appeal, the claimant describes Judge Butler, Judge Doyle and Judge Siegel QC as “crooks” whose German Master will trade them as bargaining.

13 I heard supporting oral submissions from Mr Keith (who had also submitted a written skeleton argument); Miss Hand; Mr Chan (who had also submitted a written skeleton); Mr Rozycki; Mr Hignett; Ms Quigley; Ms Elvin; Miss Dean; Mrs Logan; Miss Webber and Mrs Grace. Mr Curtis, whose submissions were adopted by all respondents, addressed me specifically on the question of a Deposit Order as an alternative to Strike-out.

The Claimant's Submissions

14 In response to the submissions, the claimant invited me to refuse the applications for Strike-out or Deposit. He informed me that DHL had admitted creating a global blacklist and produced a document which he claimed confirmed this. I read the document before returning it to him - it contained no such admission or anything to the point. The claimant then went on to state that all of the respondents and the judiciary (including myself) were acting under instructions from Mr Johnson - he asked me how much I was being paid and how much had been paid to Employment Judge Siegel QC. The claimant prayed in aid the respondent's resistance to his disclosure applications: his approach being that if the respondents had nothing to hide they would be willing to disclose anything and everything at his request.

15 When addressing the Deposit application, I addressed the question of the claimant's ability to pay. He would give me no further information beyond that he had zero assets or income and £1000s in expenses and liabilities.

The Law

16 Rule 37 provides that: “(1) At any stage of the proceedings, ... a Tribunal may strike out all or part of a claim ... on any of the following grounds – (a) that it is scandalous or vexatious or has no reasonable prospect of success; (b) that the manner in which proceedings have been conducted ... has been scandalous, unreasonable or vexatious ...”

17 In the context of this rule, “scandalous” connotes what is irrelevant and abusive of the other side: **Bennett v Southwark LBC [2002] ICR 881 (CA)**; and

“vexatious” means in abuse of process and in particular a claim which is not pursued with an expectation of success but to harass the other side: **Marler Ltd v Robertson 1974 ICR 72 (NIRC)**.

18 It is well-established that discrimination claims should not be struck out at a preliminary stage, before hearing the evidence, “except in the most obvious and plainest cases”: **Anyanwu v South Bank Student Union [2001] UKHL 14; [2001] ICR 1126 (HL); Ezsias v N Glamorgan NHS Trust [2007] EWCA Civ 330; [2007] ICR 1126 (CA)**.

19 However, that does not mean that discrimination cases are immune from the application of Rule 37, as **Anyanwu** itself made clear by reference to the need to ensure that “The time and resources of the employment tribunals ought not to be taken up by having to hear evidence in cases that are bound to fail”.

20 That was expanded on by Underhill LJ in **Ahir v BA plc [2017] EWCA Civ 1392 (CA)**: “Employment tribunals should not be deterred from striking out claims, including discrimination claims, which involve a dispute of fact if they are satisfied that there is indeed no reasonable prospect of the facts necessary to liability being established, and also provided they are keenly aware of the danger of reaching such a conclusion in circumstances where the full evidence has not been heard and explored, perhaps particularly in a discrimination context. Whether the necessary test is met in a particular case depends on an exercise of judgment ... Nevertheless, it remains the case that the hurdle is high, and specifically that it is higher than the test for the making of a deposit order, which is that there should be ‘little reasonable prospect of success’”.

21 In that regard, Underhill LJ also noted that if there is an “ostensibly innocent sequence of events leading to the act complained of”, then “there must be some burden on a claimant to say what reason he or she has to

suppose that things are not what they seem and to identify what he or she believes was, or at least may have been, the real story, albeit (as I emphasise) that they are not yet in a position to prove it". It is not enough merely for a claimant to make an assertion as to the factual position without identifying potential supportive evidence or basis, all the more so if that assertion is "speculative" or "highly implausible".

- 22 I remind myself that where one or more of the tests to strike out a claim in Rule 37 is apparently met, the decision whether to go on to strike that claim out remains one of the discretion of the judge.
- 23 Rule 39 permits the tribunal to make a Deposit Order not exceeding £1000 as a condition of continuing to advance any claim; or allegation; or argument. Rule 39(2) requires the tribunal to make reasonable enquiries as to the paying party's ability to pay the deposit and have regard to any such information when deciding on the amount. The discretion to make a deposit order arises where the tribunal considers that a claim; allegation; or argument has little reasonable prospect of success. This compares with the requirement in Rule 37(1): a Strikeout requires a finding of no reasonable prospect of success.

Discussion & Conclusions

- 24 I have heard no evidence and I make no findings of fact. My decision is based on the claims as pleaded. When addressing me, some of the respondents' advocates sought to appraise me of the basic facts of the case in relation to their respective clients. I expressly disregard such information.
- 25 In his pleaded case, which I take at its height, the claimant can establish firstly that he is Romanian; and secondly, that he applied without success for employment either with or through each of the respondents. Beyond that, his pleaded case amounts to an assertion of a fanciful scenario: namely, that his contract with DHL was terminated; that he was branded as a sex offender; that DHL were able to establish a global blacklist preventing his further employment anywhere; and that this blacklist has been maintained with the co-operation and connivance of the British, German and Romanian governments. The maintenance of the blacklist also depends on a corrupt judiciary and corrupt legal representatives.
- 26 The claimant pleads no facts which if proved by evidence could establish the existence of a blacklist or of such a conspiracy. He relies purely on his

assertion and he seeks wide-ranging disclosure in the hope of unearthing some evidence which might support his theory.

- 27 The fact that the claimant has commenced proceedings against so many respondents, insisting that all are part of this conspiracy; and not allowing for any possibility that there may be good reason for his failed application, in my judgement, suggests that the claimant well knows that he is unlikely to succeed but is taking the proceedings with a view to causing maximum annoyance and potential embarrassment to DHL.
- 28 I therefore find that the claim is highly speculative; it depends on establishing as true what is clearly a fanciful theory; and it depends on unjustifiable allegations of corruption against politicians, lawyers and judges. In my judgement all elements of Rule 37(1)(a) are made out - the claims are scandalous; vexatious; and have no reasonable prospect of success.
- 29 Considering Rule 37(1)(b), the manner in which the claimant conducts the proceedings is also scandalous; vexatious; and unreasonable. His overtly racist assertions as to the superiority of the Romanian intellect; his demeaning insult to Mr Dyer; his constant references to Mr Appel as "Dr Sex"; and his reference to the "final solution". This is all in addition to his allegations of bribery and corruption against the judiciary and gratuitous insults to professional representatives such as Mr Greasby.
- 30 In my judgement, the threshold criteria set out in Rules 37(1)(a) & (b) are clearly met.
- 31 In exercising my discretion, I am quite satisfied that it is appropriate to strike out these claims. The claimant has adduced before me no circumstances in which it would be justified to allow them to continue. Indeed, during the course of the hearing he has continued with his allegations of corruption against me and his suggestion that the Prime Minister is waiting for me in the retiring room to pay my corrupt entitlement. The respondents are being put to considerable cost in defending these proceedings; and an unjustifiable amount of tribunal time and resources has so far been committed.
- 32 In the circumstances therefore, pursuant to Rule 37(1)(a) & (b) all of these claims are struck out.
- 33 I was invited by the respondents to consider the question of Deposit

Orders. Clearly, Deposit Orders are not appropriate in the light of my decision to strike the claims out. Had the claimant been able to persuade me that there was some minimal prospect of success, I would have been minded at least to order the payment of a deposit of £1000 as a condition of continuing with the claims against each and every respondent.

- 34 As I am required to do by Rule 39(2), I made enquiries as to the claimant's ability to pay. The claimant simply did not engage with my enquiry. Accordingly, Deposit Orders would, if appropriate, have been made without reference to his means.

Employment Judge
5 December 2019

Judgment sent to Parties on
20/12/2019

Case No.	Respondent	Representative
1305494/2018	C.T. Group Recruitments Ltd	
1300230/2019	Mitchell Adam Limited	
1300231/2019	Robert Half Limited	Mr E. Piggot
1300282/2019	Kate + Co Limited	Mrs S. Grace
1300329/2019	Probe Uk Ltd	Mr W. Haynes
1300330/2019	Bell Cornwall Associates Limited	Mr J. Cornwall
1300331/2019	Greenwell Gleeson Limited	Mr R. Lawton

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1300332/2019	Wallis Lynch Ltd	Mr C. Maclachlan
1300333/2019	T2m Resourcing Ltd	Mr S Randall
1300334/2019	Hollyfield Personnel Limited	
1300335/2019	Pure Staff Ltd	Miss C. Elvin
1300336/2019	Altodigital Networks Limited ASC Connections Limited European Food Brokers Limited Finance Recruitment Solutions Limited Fast Track Management Services Limited	Miss R. Peck Mrs J. Storer Ms L Quigley
1300337/2019	Tirebuck Recruitment Limited Elite Personnel Limited LSL Property Services PLC Paul Mitchell Associates Limited	Miss T. Hand Mrs J. Logan
1300338/2019	Alexander Daniels Limited Kingscroft Professional Resources Limited AMR limited Hamlin Knight Limited Riverbright Limited	Mr R. Hignett Mr W. Haynes
1300339/2019	CY Executive Resourcing Limited 1-1 Recruitment Limited Sheridan Maine (Midlands) Limited Source Appointments Limited Able Recruitment Services Limited	Mr P. Keith Miss N Webber Mrs T. Dawson Mr T. Taylor Mr R. Hignett
1300340/2019	E (Gas and Electricity) limited Ngage Specialist Recruitment Limited Adecco UK Limited Oliver William Recruitment Limited Inplace Recruitment Limited	Ms V. Duddles Mrs H. Falway Mr Weijcainchen Mr R. Morton
1300341/2019	Holland & Barrett International Limited Ashdown Group Limited Identify Finance Recruitment Limited Dunton Environmental Limited Distinct Recruitment Limited	Mr G. Graham Mr M. Curtis Mr A. Rozycki
1300342/2019	Counted Recruitment Limited HR Go Recruitment Limited Human Resource Ventures Limited	Mr D. Taylor Mr J. Harrison
2300298/2019	Pagegroup PLC	Miss T. Hand

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3200213/2019	Caresoft Global Limited	Mr M. Scott
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