



EMPLOYMENT TRIBUNALS

Claimant: Mr B Ganji

Respondent: University of Reading

Heard at: Reading **On: 17 February 2021**

Before: Employment Judge Gumbiti-Zimuto

Appearances
For the Claimant: In Person
For the Respondent: Ms C Ibbotson, counsel

JUDGMENT

1. The application to strikeout the claim is dismissed.
2. **Unless** the Claimant sends to the Respondent a list and copies of the documents in his possession custody or control relevant to the claim by 4pm on 12 March 2021 the claim for remedy, except a declaration, will be struck out.

REASONS

1. The Respondent, University of Reading ('UOR') makes an application to strike out the claim on the ground that the manner in which the proceedings have been conducted by the Claimant has been scandalous and unreasonable. The Claimant brings a claim of direct race discrimination based on his ethnic or national origins in respect of the Respondent's failure to appoint him to the role of Lecturer in International Security in June 2019. The issues to be decided in the case are set out in paragraphs (7) to (9) of the record of case management discussion on 22 April 2021.
2. On 30 October 2021 the Claimant presented his complaint to the employment tribunal. Directions in respect of disclosure were made on the 22 April 2020. The Claimant began making complaints about the conduct of the Respondent's representative MB on 2 June 2020. The complaint was that MB was "*withholding evidence and refusing to disclose even the most elementary*

documents about this case". From my consideration of the matters before me that allegation is unfounded.

3. On 3 June 2020 the Director of Legal Services at UOR wrote to the employment tribunal to refute the allegations made by the Claimant about MB. The Claimant also sent emails the employment tribunal accusing MB and the Director of Legal Services of mishandling the case and stating that he might be left with no choice but to make an official complaint to the Law Society. The Claimant further wrote to the employment tribunal "*to clarify a number of points with regard to the Respondent's continuing appalling conduct*".
4. On 24 September 2020 the Respondent sent the Claimant its list of documents for disclosure and copies of all of the documents as directed by the employment tribunal in the Case Management Order made on the 22 April 2020. On the 25 September 2020 the Claimant complained that the Respondent had failed to disclose the documents he had requested.
5. The Respondent informed the Claimant that its position was that it had complied with its obligation of disclosure and that he should make an application to the employment tribunal for disclosure of further documents if he is not satisfied. The Respondent requested that the Claimant provides copies of any document that he wishes to rely on at trial or which are relevant to any issue, including mitigation evidence, by 14 October 2020.
6. The Claimant's response was to make further allegations about the Respondent's representative in the following terms:

"I will file an official Contempt of Court Order against your client and an official complaint against you and your line manager. Moreover,, your stance blatantly contravenes GDPR and PDA rules governing Employment Tribunals. I would also urge you to stop using the term, relevant documents. It does also seem that you and your line manager are the ones who are in need of urgent legal assistance due to your incompetence, lack of professionalism and sheer racism throughout this case. After all, you were so incompetent and racist that you did not even know the difference between citizenship and ethnic origin. I am sure you would not mind my not thanking you for your e-mail of 30 September 2020 which is arrant nonsense from start to finish. However, you seem to have made a habit of writing nonsensical messages."

7. The Claimant wrote to the employment tribunal on 5 October 2020 to make "*another official complaint against the Respondent's lawyer... and her line manager for their refusal to disclose the documents required by the Claimant, trying to stage a cover-up and resorting to harassment to justify their behaviour*". The Claimant wrote to the employment tribunal again on 8 October 2020 making allegations about one of Respondent's witnesses S, including allegations about his associations with the Russian, Turkish, and Chinese governments, and about his ability to effectively carry out his role. The claimant's allegations against S continued on the 14 October 2020 when

he stated that S has “*extremely serious mental health problems*” which have affected his academic judgment. The Claimant also refused to disclose his mitigation evidence unless the Respondent provided “*official notarized guarantees*” that the documents will not be shown to S, amongst others. The Respondent informed the Claimant that it will not be providing guarantees and explained that it was requesting evidence that he has mitigated the losses he claimed to have suffered.

8. The Respondent made an application to strike out the claim on the 19 October 2020. The Claimant wrote to the employment tribunal opposing the application.
9. The Claimant then wrote to the employment tribunal alleging that MB has “*tacitly admitted that [S] is a paid agent of the Russian, Chinese and Turkish governments and that he has worked for them for money*” and making further allegations about S’s ties with Russia.
10. The Claimant then applied for a “*Contempt of Court Order*” against the Respondent, a strike out due to the Respondent providing “*little or no documentary evidence*” and a “*Discovery Order*”. In support of his application the Claimant sent a further letter to the employment tribunal in which he repeated his allegations against S. The Respondent opposed the Claimant’s applications.
11. There was correspondence from the employment tribunal informing the Claimant that if he had not complied with the employment tribunals order of the 22 April 2020 he must do so by 30 November 2020. The Claimant wrote to the employment tribunal that he will provide his job applications to employment tribunal and ask the judge to release them to Respondent’s lawyers only on the condition that they are not shown to anyone except the highest ranking officials at the Respondent due to fears about his own security and national security. The Claimant also made further allegations about MB’s incompetence.
12. The Claimant sent his disclosure list to the employment tribunal on the 26 November 2020. On 1 December 2020, the Respondent wrote to the employment tribunal confirming that the disclosure of the documents sought by the Respondent would not pose a risk to Claimant’s security or national security. The Claimant did not agree with that and wrote to the employment tribunal to say so.
13. For the avoidance of doubt the matters that the employment tribunal case will have to determined do not give rise to issues of national security.
14. The legal principles that I have to apply have been helpfully set out in the Respondent’s skeleton argument.
15. The first category are allegations about S. The Respondent submits that in multiple lengthy emails and letters sent by the Claimant to the Respondent’s representatives and to the ET, he has made untrue, irrelevant,

hurtful and damaging allegations about S, who is the Chair of the panel which rejected the Claimant's job application and is therefore the Respondent's most important witness. This is "*a misuse of the privilege of legal process in order to vilify*" S and is unreasonable conduct which "*has made a fair trial impossible*" because it is likely that the Claimant continue to make dishonest allegations about S at trial. Furthermore, there is a risk that S will be intimidated and unwilling to give full/any evidence at trial, where he will need to be cross-examined by the Claimant.

16. There three types of allegations made by the Claimant about S. There are many instances of the Claimant making allegations about S's association with the Russian, Turkish, and Chinese governments and that S is a Russian, Turkish, Chinese agent who is a threat to British national security and to the Claimant's security. There are examples of the Claimant making allegations that S has "*extremely serious mental health problems*" which have affected his academic judgment. There are allegations made by the Claimant about S's inability to properly carry out his role due to the nature of his posts on his personal Twitter account.
17. I approach this application on the basis that the allegations are untrue, and regardless of whether the Claimant believes them to be true, they are irrelevant to the issues to be decided in this case and the Claimant must know that they are irrelevant to the issues to be decided in this case which have been set out in paragraphs (7) to (9) of the record of the case management order. There is no evidence of the impact that these false allegations have had on S or the likelihood of him giving evidence.
18. The second category are allegations about the Respondent's representatives. In multiple lengthy emails and letters sent to the employment tribunal, the Claimant has made untrue allegations about the Respondent's representatives and behaved in an abusive manner towards them. The Respondent states that this is "*a misuse of the privilege of legal process in order to vilify*" the solicitors acting for the Respondent and is unreasonable conduct which "*has made a fair trial impossible*" because it is likely that the Claimant will continue to make untrue allegations and behave in an abusive manner at trial.
19. The nature of the claimant's allegations may well have been irksome for the Respondent's representatives but there is no evidence that they materially affected the ability of the Respondent's representatives to robustly defend the interests of the Respondent or had an effect that will make a fair trial impossible. The claimant's allegations though repeatedly made carry little weight, they are bombastic and read like the submissions made by a barrack room lawyer.
20. There are allegations made about G, who successfully applied for the role. These allegations impugn G's credentials for the role.

21. Finally the Claimant has thus far failed to disclose any documentation. It is said by the Respondent that the Claimant is guilty of is unreasonable conduct which has *“taken the form of deliberate and persistent disregard of required procedural steps”* because since 25 September 2020 he has been in breach of the order made at the preliminary hearing on 22 April 2020. The Claimant has deliberately breached the order, stating that the Respondent must provide *“official notarized guarantees”* that the documents will not be shown to S, amongst others, due to fears about his own and national security. The Respondent points out, correctly in my view, that it is wholly unreasonable for the Claimant to believe that his security will be threatened in the event that he disclosed mitigation evidence to the Respondent.
22. Rule 37(1)(b) of the Tribunal Rules 2013 provides that a claim may be struck out if *“the manner in which the proceedings have been conducted by or on behalf of the claimant ... has been scandalous, unreasonable or vexatious”*.
23. The Claimant’s conduct of the proceedings is scandalous if there is *“misuse of the privilege of legal process in order to vilify others; the other is giving gratuitous insult to the court in the course of such process”*: Bennett v Southwark London Borough Council [2002] ICR 881. I am satisfied that in the way that the Claimant has conducted himself in conducting the proceedings by making allegations against S, the Respondent’s legal representative and G has been scandalous. The Claimant has repeatedly made comments that are irrelevant and untrue.
24. To strike out for unreasonable conduct, I must be satisfied either that the conduct *“has taken the form of deliberate and persistent disregard of required procedural steps, or that it has made a fair trial impossible”*: Blockbuster Entertainment Ltd v James [2006] IRLR 630.
25. I am satisfied that a fair trial is still possible. The allegations about S are untrue, and regardless of whether the Claimant believes them to be true, they are irrelevant to the issues to be decided in this case and the Claimant must know that they are irrelevant to the issues to be decided in this case. There is no evidence of the impact that these false allegations have had on S or the likelihood of him giving evidence.
26. The allegations about the legal representatives are no doubt irksome for the Respondent’s representatives but there is no evidence they materially affect the ability of the Respondent’s representatives to robustly defend the interests of the Respondent or will make a fair trial impossible. The allegations against G are entirely irrelevant and they can be discounted without causing prejudice to the Respondent’s case.
27. The Claimant’s failure to disclose documents in this case can only create prejudice to the Respondent if there has been a failure to disclose relevant documents. The only relevant documents that are not in the possession of the Respondent relate to mitigation.

28. While it is undoubtedly the case that some of the Claimant's conduct is scandalous and unreasonable, persistently making untrue allegations is both scandalous and unreasonable conduct, an order striking out the claim in any event has to be a proportionate response to the manner in which the Claimant has been conducting proceedings given the nature and severity of his conduct. It would not be proportionate to strikeout the whole Claim for the failure to disclose documents solely related to mitigation where in a case such as this where a remedy of a declaration can be made independent to any considerations of mitigation of loss. I am not satisfied that striking out the claim would be a proportionate response to the way that the Claimant has conducted the proceedings.
29. The Claimant needs to provide documents relevant to mitigation and any other documents that he has in his possession custody or control which are relevant to the issues to be decided in this case. The Claimant must disclose his documents by providing a list and copy documents to the Respondent by 12 March 2021, unless the Claimant provides his documents by that date the Claimant's claim for an remedy other than a declaration will the struck out.

Employment Judge Gumbiti-Zimuto

Date: 19 February 2021

11/03/2021

Sent to the parties on:
T Henry-Yeo

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For the Tribunals Office

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