



EMPLOYMENT TRIBUNALS

Claimant: Dr R J Heal

Respondent: (1) Oxford Health NHS Foundation Trust
(2) University of Oxford
(3) Harris Manchester College Oxford
(4) Health Education England
(5) The Secretary of State for Health and Social Care

Before: Employment Judge A James

Sitting at: London Central

Date: 6 May 2021

JUDGMENT

Pursuant to Rule 37 of the Employment Tribunal Rules of Procedure 2013:

- (1) The following claims are struck out and are dismissed as they have no reasonable prospect of success.
 - a. Claims under the Medical Act 1983
 - b. Claims under the Fraud Act 2006
 - c. Claims under the Health and Social Care Act 2012
 - d. Claims under the Care Act 2014
 - e. Freestanding claims under the Human Rights Act 1998
 - f. A private law claim alleging a failure to comply with the public sector Equality Duty (s.149 Equality Act 2010 ("EqA 2010"))
 - g. A claim pursuant to s.1 EqA 2010 for alleged socioeconomic discrimination
 - h. A complaint about an allegedly unenforceable term (s.142, 144, 145 EqA 2010).
 - i. Claims for unjust enrichment, deception and dishonesty-based wrongs.
- (2) Such claims were also totally without merit.
- (3) The claimant's claims for breach of contract under the Extension of Jurisdiction Order 1994 are struck out and are dismissed as they have no reasonable prospects of success.
- (4) Such claims were also totally without merit.

- (5) The whistleblowing claims (Part IVA Employment Rights Act 1996) against Harris Manchester College Oxford, Health Education England and The Secretary of State for Health and Social Care are struck out and are dismissed as they have no reasonable prospects of success.
- (6) Such claims were also totally without merit.

REASONS

1. A further preliminary hearing for case management purposes took place by video link on 5 February 2021. Orders dated 18 February 2021 were sent out following that hearing. They included notice to the claimant that the Employment Judge was considering striking out the above claims on the basis that they had no reasonable prospects of success. If the claimant objected to the proposed strike out, he was to give his reasons in writing, or request a hearing at which he could provide them, by 4pm on 5 March 2021.
2. The claimant has failed to do so, save that on 26 March 2021, in an email relating to claims against Queens Mary University of London, he alleges that: *“The entire legal process for the Claimant has been prevented and perverted by the conduct of the Employment Tribunal Service and London Central Employment Tribunal (and individual therein)”* (sic). He also argues in that email: *“There are no lawful grounds to strike out the claim against QMUL (nor any other claims). Perverting the legal process and denying access to justice are not lawful; and not lawful basis for any judgements. Fraud Vitiates All.”* (sic)
3. That response does not engage with the merits of the claims at all or set out any legal and/or factual basis for bringing or continuing such claims in the Employment Tribunal.
4. In relation to (1) above, the tribunal does not have jurisdiction to hear any of those claims. The claimant has not sought to argue otherwise. Nothing more need be said.
5. In relation to (3) above, such claims can only be brought where a claimant has been employed under a contract of employment by the respondents. It is not in dispute that Harris Manchester College Oxford, Health Education England and The Secretary of State for Health and Social Care, have never employed the claimant and the tribunal therefore has no jurisdiction at all in relation to those claims. As for the University of Oxford and Oxford Health NHS Foundation Trust (the Trust), the claimant alleges that he was employed by them between 1999 and 2004. It is the Trust’s primary argument that the claimant has never been employed by them. In any event, even if he had been, the claim should have been submitted within three months of the termination of the claimant’s employment. The claimant claims were not submitted until some 14 years later and are therefore hopelessly out of time.
6. For the above reasons, all of the breach of contract claims have no reasonable prospect of success. Further, the claimant is in breach of the order dated 18 February 2021; and the claims are not being actively pursued. For all of those reasons, the claims should be and are struck out.

7. In relation to (5) above, such claims can only be brought where a claimant has been employed (in the extended meaning of that term under the Employment Rights Act 1996) by the respondents. As noted above, it is not in dispute that Harris Manchester College Oxford, Health Education England and The Secretary of State for Health and Social Care, have never employed the claimant, whether under the extended meaning or at all, and the tribunal therefore has no jurisdiction at all in relation to those claims. Further, in relation to certain NHS employers, which includes Health Education England, claims can be taken where an application has been made for employment. The claimant does not allege that he has ever applied for employment with Health Education England. The whistleblowing claims therefore have no reasonable prospect of success against those respondents. Those claims remain against the University of Oxford and the Trust.
8. I have also determined that the claims which have been struck out were totally without merit. In relation to the claims that the tribunal has no jurisdiction in relation to, those claims are totally without merit for that reason. In relation to the breach of contract claims, the claims are totally without merit against those respondents who have never employed the claimant. Further, they are totally without merit, in relation to those claims that are hopelessly out of time. As for the whistleblowing claims, the claims are totally without merit, where the claimant has not been employed or applied for employment, with those respondents. None of those claims ever had any chance of succeeding.
9. As a result of the strike out of the claims referred to above, the only remaining claims appear to be the Part 5 Equality Act 2010 claims against all respondents and the whistleblowing claims against the first and second respondents only. Those claims remain listed for a preliminary hearing to determine various preliminary issues, on 23 and 24 June 2021 and remain subject to the directions made on 18 February 2021.

Employment Judge A James

6 May 2021

Sent to the parties on:

06/05/2021.

For the Tribunal: