



# EMPLOYMENT TRIBUNALS

**Claimant:** Miss Anindita Ghosh  
**Respondent:** Ericsson Limited  
**Heard at:** Reading **On: 28 May 2021**  
**Before:** Employment Judge  
**Appearances**  
**For the Claimant:** Mr L Betchley, counsel  
**For the Respondent:** Mr r Dennis, Counsel

## JUDGMENT

The application for interim relief is dismissed.

## REASONS

1. The claimant relies on two disclosures that the claimant contends are protected disclosures. These are and email to Juan Carlos Castro p171 and p226 a disclosure made on the respondent's speak up portal.
2. The respondent says
  - a. The alleged protected disclosures are not likely to be found to be protected disclosures because the first disclosure does not contain any information that the claimant could have believed tends to show any relevant failure that is a criminal offence or legal obligation. The claimant does not say anything here to suggest that the respondent (or anyone else) has committed a criminal offence or failed to comply with any legal obligation, or is likely to do so.
  - b. In any event, even if the claimant genuinely held such a belief, that belief was unreasonable.
  - c. Further, the claimant cannot have genuinely or reasonably believed that this disclosure was made in the public interest. There is no public interest in whether: (i) the respondent extends "personal" favours to its clients, by agreeing to meet short deadlines; or (ii) the respondent uses its formal channels for orders of this nature;

- d. As to the second disclosure the claimant relies on her disclosure to respondent's "Speak Up" channel on 26 April 2021.
  - e. Miss J Dauncey was not aware of that disclosure until after she had dismissed the claimant: see (JD/51, 61-62, 70). Accordingly, the claimant cannot hope to succeed in her claim on this basis.
  - f. In any event, the Tribunal is not likely to conclude that this message contains any qualifying disclosure either. The claimant has not identified any specific passages relied upon. The respondent contends that taking the document as whole. The Tribunal is not likely to conclude that anything in those passages (or elsewhere in this message) constituted a qualifying disclosure.
  - g. The claimant does not disclose any information that she could have believed tends to show any relevant failure. The claimant does not say anything to suggest that the respondent (or anyone else) has committed a criminal offence or failed to comply with any legal obligation, or that they are likely to do so.
  - h. If the claimant did believe that the respondent or Ravi had breached some legal obligation, or was likely to do so, any such belief was unreasonable.
  - i. Further, the claimant cannot have genuinely or reasonably believed that this disclosure was made in the public interest.
3. The claimant has not engaged in this application directly with all of those points but says that as to disclosure 1 (p166) - email to Juan Carlos Castro. The reference to "Personal favour" implies some form of wrong doing, perhaps under the Bribery Act or at least the breach of a legal obligation. The respondent is a publicly listed company with a strong anti-corruption policy, it has public investors and so any kind of wrong doing should cause concern for those interested.
  4. As to disclosure 2 (p221)- speak up portal Ericsson whistleblowing line. It is said that this refers to the Gap analysis work that was to be completed as a personal favour, and, "*if you look under the bonnet*" it is clear what the implication of what the claimant is saying is. The Investigation into the claimant's disclosure had not started before the dismissal.
  5. The claimant today has to satisfy me that she has 'a significantly higher degree of likelihood than just more likely than not' in showing that. Applying that to a whistleblowing claim, according to the existing case law, as read along with the legislative amendment to whistleblowing law in 2013, the claimant must show that level of chance in relation to all the elements that: she made the disclosure(s) to the employer; she believed that it or they tended to show one or more of the matters itemised in the

Employment Rights Act 1996 s 43B (1); that her belief in that was reasonable; that the disclosure(s) was or were made in the public interest; and that the disclosure(s) was or were the principal cause of the dismissal.

6. While I am satisfied that it is possible that if the evidence comes out as the claimant would like to position it, and the Tribunal the draws the conclusions and inferences that the claimant wishes them to, the claimant might be able to show that there was a protected disclosure. However, on my summary assessment of all the material put before me I am not convinced that the claimant can say more than that it is possible that a Tribunal could conclude that there was a protected disclosure. I am not satisfied on a summary appraisal of the information put before me that it is likely that the claimant will show that that she made a protected disclosure.
7. For those reasons the application for interim relief is dismissed.

---

Employment Judge Gumbiti-Zimuto  
Date: 12 August 2021

Sent to the parties on:  
9 September 2021

S. Bhudia  
For the Tribunals Office

**Public access to employment tribunal decisions:**

All judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the Claimant(s) and Respondent(s) in a case.