



EMPLOYMENT TRIBUNALS

Claimant: Miss V. Litchfield

Respondent: TUI Airways Limited

Heard at: Watford (by CVP)

On: 8 October 2021

Before: Employment Judge McNeill QC

Appearances

For the Claimant: In person

For the Respondent: Mr T. Welch, Counsel

JUDGMENT – PRELIMINARY HEARING

(1) The Claimant has permission to amend her claim to include six further detriments as follows, the first four of which relate to alleged treatment that occurred or continued after the Claimant had presented her first ET1 on 3 August 2020 and until the Claimant's employment terminated on 19 August 2021:

- i. The Respondent failed to comply with its obligations in relation to three out of four data subject access requests made by the Claimant;
- ii. A refusal by Human Resources (HR) to enable any discussion to take place between the Claimant and the Respondent about the safety issues raised by Claimant and relied on by her as protected disclosures within the meaning of sections 43A and 43B of the Employment Rights Act 1996 (ERA);
- iii. A failure by the Respondent to discuss with the Claimant Occupational Health reports received by the Respondent on 23 September 2020 and 17 December 2020 or a Doctor's report received by the Respondent in December 2020;
- iv. A failure by the Respondent to consider the Claimant for any alternative roles when she was absent from work on ill-health grounds;

- v. A failure to engage the assistance of an external mediator to mediate between the Claimant and the Respondent, even after the Claimant had offered to pay personally for an Acas mediator;
- vi. The manner in which an internal mediation was conducted (subject to any arguments as to whether reference to that mediation is permissible as a matter of law).

(2) The Claimant's claims for detriment in respect of:

- i. being denied an opportunity to purchase additional annual leave;
- ii. having her annual request for holiday to take a four-week trip to India refused;
- iii. not receiving a performance-based salary increase; and
- iv. the Respondent not making an application for PHI cover for her sickness absence early enough in the sickness absence process

are all dismissed as out of time.

(3) The claims for detriment that will proceed to a full hearing are the six claims listed at paragraph (1) above (subject to the lawfulness of referring to the conduct of the mediation) and the following three claims for detriment:

- i. Upholding the outcome of the grievance meeting at the grievance appeal;
- ii. Mr Hills' (the Claimant's Line Manager's) behaviour towards the Claimant shown in grievance meeting notes;
- iii. The behaviour of Paul Burraways (the Claimant's senior manager) towards the Claimant shown in grievance meeting notes.

(4) Further orders relevant to the preparation for the full merits hearing in the case are provided by separate order.

Employment Judge McNeill QC

Date: 9 October 2021

Sent to the parties on: 22 October 2021

S. Bhudua

For the Tribunal

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a written request is presented by either party within 14 days of the sending of this written record of the decision.

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