



THE EMPLOYMENT TRIBUNALS

Claimant: Miss S Coulson

Respondent: Potensial Ltd

REASONS OF THE EMPLOYMENT TRIBUNAL

Held at: Newcastle upon Tyne Hearing Centre

On: Monday 14th March 2022

Before: Employment Judge Martin

Members: Mr R Dobson

Appearances

For the Claimant: In Person

For the Respondent: Mr Maynell (Employment Consultant)

REASONS

1. At the outset of the hearing today the tribunal decided first of all to deal with the issue as to whether the claimant had a philosophical belief as a preliminary issue. The parties agreed to the case proceeding in relation to this matter with one member, which was due to another member having a positive Covid test over the preceding weekend.
2. The claimant gave evidence on her own behalf in relation to this preliminary issue and referred to a number of documents in the final agreed bundle.
3. The law which the tribunal considered was as follows:

Section 10 of the Equality Act 2010. Section 10 (2) provides that belief means that any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.

The tribunal also considered and was referred to the case of **Grainger Plc v Nicholson 2010 IRLR 4** which set out some definitions and criteria on philosophical belief as follows: It set out five specific criteria:- Firstly, the belief must be genuinely held. Secondly it must be a belief and not as held in **McClintock V Department of Constitutional Affairs 2008 IRLR 29** an opinion or viewpoint based on the present state of information available. Thirdly, it must be a belief about a weighty and substantial aspect of human life and behaviour. Fourthly it must attain a certain level of cogency, cohesion and importance. Fifthly, it must be worthy of respect in a democratic society and not be incompatible with human dignity and not conflict with the fundamental rights of others referred to a couple of cases in that regard.

4. The tribunal also considered the EHRC code of practice 2011 which also addresses the meaning of belief at paragraph 2.59. This effectively endorses the provisions set out in the case of Grainger which we do not propose to repeat here. That paragraph also gave some examples of examples of cases of belief.
5. The claimant was employed as a support worker. She works with vulnerable users.
6. The claimant has a fear of invasive medical procedures and other interventions which appears to have existed since childhood. This manifests itself in panic attacks, fainting and a reluctance to attend medical or dental appointments and a need to be accompanied to them.
7. However she has, in the past, had dental treatment which she says she underwent because she was in excruciating pain. There is evidence from her dental records that she failed to attend appointments on occasions and had panic attacks when she was there. In her evidence she also confirmed that she had blood tests when it was necessary. She indicated that she was usually accompanied when she went to medical tests or appointments. She also confirmed in her evidence that she has taken medication when she effectively deemed it necessary. She has had medical emergency operations and indicated that she has had two C sections when she had her children. She also has two tattoos which she said were done when she was drunk.
8. The respondent introduced weekly testing for Covid 19 in November 2020, which the claimant refused. She says the reason she refused the testing was because of her belief of a fear of medical interventions and procedures. As part of her refusal, she also referred to a lack of documentation and concerns about policies/procedures and data protection.
9. In this case, this tribunal is concerned that the claimant is confusing a fear with a philosophical belief. We consider that there is evidence that she has a genuine fear of invasive procedures and this appears to impact upon her physically and mentally. She consents to undertaking invasive procedures, medical procedures

and interventions when she deems it necessary, but when she does not believe it is necessary then her fear of such procedures takes precedence. This corresponds not to a belief, but a viewpoint based on information available to her. Therefore in that respect it does not meet the legal test required by the act as noted in the case of **Grainger** and **McClintock** as referred to above.

10. Further, although we accept that her fear may be genuine, we do not accept that, even if such fear could amount to a belief, we do not find that it does, as we do not consider it is genuinely held. When the claimant feels it necessary, she will undertake the procedure and reject the belief herself. We accept that her fear relates to a feeling of being in danger because of the procedures, but in many aspects that appears to be akin to a fear of pain which is experienced by many people in society and that again is not sufficient to amount to a belief under the legislation.
11. Furthermore, we do not accept that her fear has sufficient cogency or cohesion to the extent that she could not explain how she balanced undertaking procedures and interventions when she was in fear and felt in danger with her fear of the procedure except it seems as a matter of expediency because of the amount of pain she was in at the time she underwent any such procedures.
12. Therefore, we find that the belief put forward by the claimant does not meet at least three of the criteria set out in the leading case of **Grainger** or the EHRC Code of Practice. Accordingly, she has not met the standard required to show that her fear in that regard amounted to a philosophical belief. We did however wonder whether it might be a condition of some sort.
13. Accordingly, her complaint of discrimination on the grounds of religion and belief is not well-founded and is hereby dismissed.

EMPLOYMENT JUDGE MARTIN

**REASONS SIGNED BY EMPLOYMENT
JUDGE ON 15 June 2022**

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