



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

AND

Respondent

Ms R Jandu

Marks and Spencer Plc

Heard at: London Central

On: 9 and 10 November 2022

Before: Employment Judge H Stout
Tribunal Member S Pearlman
Tribunal Member N Sandler

Representations

For the claimant: Patrick Tomison (counsel)

For the respondent: Hitesh Dhorajiwala (counsel)

REMEDY AND COSTS JUDGMENT

The unanimous judgment of the Tribunal is that:

- (1) The Claimant is entitled to compensation under s 124 of the Equality Act 2010 of **£53,855.99**, calculated as follows:-
 - a. Past loss of earnings from 31 October 2020 to 1 February 2022, less benefits received and ex gratia redundancy payment: **£21,297.15**;
 - b. Expenses incurred in mitigation of loss: **£119**;
 - c. Loss of statutory rights: **£500**;
 - d. Interest on the above sums under the *Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996*: **£1,887.79** (calculated at the judgment rate of 8% from the mid-point date between the date of contravention, 15 September 2020, and the hearing date, 10 November 2022, being 393 days at a daily rate of £4.80);
 - e. Injury to feelings: **£22,000** (including £2,000 by way of aggravated damages);

- f. Interest on the injury to feelings award at the judgment rate of 8% from the date of contravention to hearing date, being 787 days at a daily rate of £4.82, giving a total of **£3,794.85**;
 - g. The total compensatory award is therefore £49,598.79. Allowing for £30,000 tax free, and £2,570 by way of unused personal allowance for 2021/22, the Claimant will be liable to tax at 20% on £17,028.79, so the total award must be grossed up by **£4,257.20**, giving a total of **£53,855.99**.
- (2) As the Claimant has been fully compensated for her losses under s 124 of the Equality Act 2010, no compensatory award is payable under s 123 of the Employment Rights Act 1996.
 - (3) As the Claimant received a redundancy payment more than equal to her entitlement to a basic award for unfair dismissal under s 122 of the Employment Rights Act 1996, no basic award is payable under that section.
 - (4) The Respondent must pay the compensation to the Claimant **within 14 days** of the date this judgment is sent to the parties.
 - (5) Pursuant to Rule 76(1)(a), the Respondent is further ordered to pay the Claimant:
 - a. 30% of her costs reasonably and proportionately incurred from 27 October 2021 up to and including the end of the liability hearing; and,
 - b. 100% of her costs reasonably and proportionately incurred from the end of the liability hearing to the end of the remedy hearing.
 - (6) The amount of costs is to be assessed if not agreed.
 - (7) By **15 December 2022** the parties are to notify the Tribunal that they have managed to agree what costs are payable by the Respondent to the Claimant pursuant to the Tribunal's judgment, or, in default, must by that date make written submissions on the assessment of costs for determination on the papers. Alternatively, if either considers that a further hearing is necessary, they should say so and Employment Judge Stout will decide whether or not to list a hearing.

Employment Judge Stout

10 November 2022

JUDGMENT SENT TO THE PARTIES ON

11/11/2022

FOR THE TRIBUNAL OFFICE

Reasons were given orally at the hearing and written reasons were requested and will follow in due course.