



EMPLOYMENT TRIBUNALS

Claimant: Amanda Lawson

Respondents: London Ambulance Service NHS Trust

Heard at: London South (by CVP) **On:** 21 November 2022

Before: Employment Judge Cheetham KC

Representation

Claimant: in person
Respondent: Mr S Sudra (counsel)

JUDGMENT

1. The complaints of direct disability discrimination, indirect sex discrimination and victimisation are struck out as having no reasonable prospects of success.

REASONS

1. This is a claim that was received by the Employment Tribunal on 27 October 2021. The Claimant's employment commenced on 11 July 2019 and ended on 5 September 2021. She was employed as an Associate Tutor.
2. This hearing has been listed to hear the Respondent's application to strike out the claim. The Claimant, who is a litigant in person, drafted particulars of claim and then provided some further information. At a previous hearing, she was given very specific

questions by the judge to try and define her complaints and she did provide some further information.

The application

3. There are 4 complaints. With regard to the claim for direct sex discrimination, Mr Sudra that this was a “one-off” event, relating to an alleged failure to progress the Claimant to a degree course in January 2020. It was therefore some 15 months out of time and there was no basis for extending time on a just and equitable basis. In any event, he said, the claim had little or no reasonable prospect of success.
4. He made exactly the same submissions regarding the claim for direct disability discrimination, which also includes a complaint relating to a failure to help the Claimant by redeploying her. However, he also pointed out that, on the Claimant’s own case, other disabled people were given the opportunities that she claimed were denied to her, which was fatal to this claim.
5. With regard to the claim for indirect sex discrimination, there was simply no “provision, criterion or practice” identified, no group or even individual disadvantage. the victimisation claim was brought in general terms, with no suggestion of any protected act.
6. Mr Sudra properly reminded the tribunal that it should be slow to strike out discrimination claims and referred to the relevant guidance. However, he submitted, this was one of those cases where, despite three attempts at formulating the complaints – including having guidance from an employment judge – we were still some distance from having claims that were coherent and to which the Respondent could properly respond.
7. Ms Lawson answered these points as best she could. She came across as having a real sense of grievance about her treatment generally, but an understandable difficulty in fitting that into the necessary legal frameworks. However, the one point she did make, which is one that she has made in her pleadings, is that the failure to progress her to a degree course was ongoing treatment. She told me that she could have been put on that course at a later point than January 2020.
8. Ms Lawson also explained that, unfortunately, she was absent from work for a considerable time in 2020, as she was having treatment for cancer.

Conclusions

9. The Claimant has a very strong sense of grievance about how she was treated, but it is not for me to say at this hearing whether or not that is justified. However, I do have to say whether this sense of grievance translates into complaints that can proceed to the final hearing.

10. The history of these proceedings was set out in detail at the last Preliminary Hearing, so there is no need to repeat that. Since then, the Claimant has served further particulars of her claim so, in considering the Respondent's application, I am looking at the particulars of claim and two further sets of information. That is also important, because the Claimant has had several chances to explain her case, with the assistance of an employment judge who gave her very focused questions to answer. It is reasonable to draw a line here, rather than seek further information.
11. Direct sex discrimination. The complaint is that the Respondent failed to progress the Claimant to a degree course. What the Claimant says is that this was an ongoing course of conduct, which started in January 2020, but which continued in the sense that she was constantly asking to be progressed. If that is correct – and it is at least arguable on her pleaded case – then the time issue falls away.
12. Even if that were wrong, I would have extended time on a “just and equitable” basis. First, the Claimant has had very serious health issues over the period in question and, secondly, it is also plausible that the Claimant did not see the failure to progress her to the degree course in January 2020 as an isolated incident unconnected with her subsequent dealings with her employer. To her, it was all one and the same, even if – in law – it may not have been.
13. I also disagree that this complaint has no or little reasonable prospect of success. It is a discrete claim with a named comparator, which will turn upon the evidence.
14. Direct disability discrimination. This complaint covers the same ground as the sex discrimination complaint, as well as failures over redeployment. The real difficulty that it faces is that other disabled people were treated in ways that the Claimant says she should have been treated. It is therefore very difficult to see how disability could be the reason why the Claimant was treated in the ways about which she complains. I therefore have to agree with the Respondent that, notwithstanding a tribunal's reluctance to strike out discrimination complaints, as carefully explained in the relevant authorities, this is such a complaint.
15. I should also make clear that it is too late in the day for any complaint to be reformulated.
16. Victimisation. This is more straightforward to deal with. The Claimant quite understandably gives the word “victimisation” its usual colloquial meaning, as do many litigants in person. She feels she was victimised, in the sense that her employer was “getting at her” and giving her a difficult time. However, there is no protected act and no claim of victimisation in law, so this complaint cannot proceed.
17. Indirect sex discrimination. Similarly, as the Claimant accepted when this was discussed at the hearing, she is not referring to a “provision, criterion or practice” creating a group disadvantage. Her reference to indirect sex discrimination was to a much broader complaint of unfair treatment. This complaint cannot proceed either.

18. It follows that the complaints of direct disability discrimination, indirect sex discrimination and victimisation are struck out as having no reasonable prospects of success, but the complaint of direct sex discrimination will proceed to a final hearing.

19. The directions are set out in a separate case management order.

Employment Judge Cheetham KC

Date 22 December 2022