



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs D Bouklieva

**Respondent:** (1) Imperial College Healthcare NHS Trust  
(2) Ms S Robinson  
(3) Ms N Manning  
(4) Ms M Denison

## RESERVED JUDGMENT

1. The claimant's premature menopause was not a disability within the meaning of the Equality Act 2010 at relevant times.

## REASONS

1. These reasons should be read in conjunction with the Reasons for my Judgment in these proceedings sent to the parties on 27 March 2023. In that Judgment I concluded that some of the claimant's impairments amounted to disabilities within the meaning of the Equality Act 2010 and others did not. I did not decide whether the claimant's impairment of premature menopause amounted to a disability because, subsequent to the hearing, I considered that some European cases might bear on the question: HK Danmark v Dansk almennyttigt Boligselskab and another case [2013] ICR 851, ECJ and Z v A Department C-363/12 [2014] IRLR 563.
2. I made factual findings that the only substantial adverse effect of this impairment, on the evidence I was presented with, was to the claimant's sexual life.
3. I invited written submissions from the parties on the authorities.
4. The respondent's submission was, in brief, that in Z v A Department, the ECJ held that the definition of disability in the Framework Directive was limited by the scope of the Directive itself:

*95 ... the concept of 'disability' within the meaning of Directive 2000/78 is to be understood in relation to the possibilities for that person to work, and to exercise a professional activity. This approach appears to be consistent with*

*the aims pursued by the Directive, namely, to combat discrimination in the specific context of employment and, consequently, to enable a person with a disability to have access to and participate in employment.*

*96 In other words, because of the inherently contextual nature of disability, the issue of what constitutes a disability for the purposes of Directive 2000/78 ought to be examined on a case-by-case basis in light of the rationale underlying that legal instrument. In consequence, the issue is whether the impairment in question constitutes - in interaction with specific barriers, be they physical, attitudinal or organisational - a hindrance to exercising a professional activity.*

5. The disability provisions of the Equality Act 2010 implement provisions of the Framework Directive and the Equality Act 2010 continues to be interpreted in accordance with EU Law pursuant to sections 2(1) and 6(3) of the European Union (Withdrawal) Act 2018.
6. The claimant sent some documents which related to the factual findings I had already made. I am afraid I was unable to take into account any further evidence , as the opportunity to present evidence was at the hearing on 17 March 2023 when the respondent had the opportunity to cross examine the claimant and make submissions about the evidence..

## **Conclusions**

7. I concluded that the respondents were correct in their submission that the effect of the authorities is that for an impairment to be a disability, there has to be a potential impact on the person's participation in professional life. Although the effect of the impairment of premature menopause on the claimant's sexual activities was significant in relation to her private life, it had no effect on her professional life.
8. For these reasons, read with the findings in my earlier Judgment, I concluded that the claimant's premature menopause was not a disability within the meaning of the Equality Act 2010, whether taken on its own or in conjunction with her other impairments,

Employment Judge Joffe  
London Central Region  
03/08/2023

Sent to the parties on:

03/08/2023

For the Tribunal Office: