



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Penalva

**Respondent:** Teesside University

**HELD at Newcastle CFCTC**

**ON: Monday 14 August 2023**

**BEFORE: Employment Judge Johnson**

## REPRESENTATION:

**Claimant:**

**Respondent:**

# JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The claimant's applications for an Anonymisation Order pursuant to Rule 50 of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 and for an Order that his name be removed from the register of Employment Tribunal Judgments are refused.

## REASONS

1. By Judgment promulgated on 8 February 2023, the Tribunal dismissed the claimant's complaints of unlawful sex discrimination, unlawful race discrimination and unlawful discrimination because of philosophical belief. That Judgment was made following a hearing which took place on 23 January 2023, which the claimant did not attend.
2. The claimant has appealed against that Judgment to the Employment Appeal Tribunal, which appeal which was acknowledged by the Employment Appeal Tribunal on 26 May 2023.

3. By letters dated 25 April 2023, 28 April 2023, 1 May 2023 and 19 May 2023, the claimant complained to the Employment Tribunal in the following terms:-

“This Tribunal has published online the Judgment that the Judge Johnson evacuated. This Tribunal knows that the Judgment is not firm because it has been appealed to the Employment Appeal Tribunal. Furthermore, the appeal shows that the Judge of that case lacks impartiality, he is blatantly collaborating with the respondent and incurs perversion of justice, which has been reported as well.”

The claim goes on to state:

“As long as that sentence is online, I will link it to my appeal, which shows the perversion of justice by the Judge Johnson.”

4. In the absence of any formal application by the claimant, no action was taken on those items of correspondence.

5. By letter dated 31 May 2023, the claimant wrote to the Tribunal stating:

“I am hereby complaining about the delay of the Tribunal to reply to my request (below). The respondent sent an urgent email and this Tribunal replied immediately. I have sent an urgent email and the Tribunal has not considered it yet. The respondent is British and a powerful institution in this state. This shows lack of impartiality in this Tribunal, which is systematically playing in favour of the respondent, which is British and a powerful institution in this country.”

6. By letter dated 27 May 2023, the claimant wrote to the Tribunal in the following terms:-

“On 26 May 2023, this Tribunal received a communication from the Employment Appeal Tribunal that includes a letter of acknowledgement of my appeal to the Orders the Judge issued in this case. Therefore I request this Tribunal to withdraw from the official website the publication of the Judgment, the Judge of this case issued. That Judgment is not firm.”

7. By letter dated 7 June 2023 the Tribunal replied to the claimant in the following terms:

“Employment Judge Arullendran has directed Judgments cannot be removed from the Tribunal’s website once a decision has been given. Applications can be made under Rule 50 of the Employment Tribunal Rules of Procedure 2013 in limited circumstances which are supported by relevant evidence. The claimant has not made any application under Rule 50, therefore the Judgment will remain on the website.”

8. By letter dated 7 June 2023 the claimant applied to the Tribunal in the following terms:-

“I am hereby applying for the Judgment to be removed from the website on grounds of Rule 50 of the Employment Tribunal Rules of Procedure. This case has been appealed to the EAT three times. Furthermore, in the first appeal the Judge of the case was recused for lack of impartiality. The grounds of law for these appeals are paragraphs 3.10 (perversity) and 12 (bias) of the Practice Direction EAT 2018. According to evidence the Judges of this case didn’t follow the correct procedure and this affected the decision. Both the Judge of the procedure and the Judge at the hearing were unfairly biased towards the respondent, of British nationality and a powerful institution in the region. Both the

Judges and the respondent seem to have acted in collaboration. The Judge at the hearing clearly lacks impartiality, is biased and has blatantly acted with perversity – as evidence shows. The Judgment is the result of such a perversion of justice. The publication of that Judgment is damaging my reputation when I am applying for a position at the University and it is clearly jeopardising my professional career. On these grounds I am respectfully requesting the Judgment to be withdrawn from the online, until the EAT sees this case.”

9. By letter dated 17 June 2023 the claimant submitted a further letter to the Tribunal stating as follows:-

“(i) Application – this application is twofold.

(ii) Complaint against the Judges that have considered this case for lack of impartiality, bias, and perversity, furthermore, they allegedly incur organised crime.

(iii) Requesting the online publication of the Judgment to be withdrawn. This case has already been appealed to the Employment Appeal Tribunal for lack of impartiality, bias and perversity. Evidence provided in this note shows that Judgment is a perversion of justice made to “kill” the professional reputation of the claimant.”

10. By letter dated 28 June, the Employment Tribunal wrote to the claimant in the following terms:-

“Employment Judge Johnson has examined the correspondence from the claimant and is satisfied that none of the claimant’s representations meet the high threshold required under Rule 50. The application is refused.”

11. By letter dated 28 June 2023 the claimant made the following submission:-

“I am hereby challenging the Order that the Judge Johnson has issued today 28 June 2023 and complaining against him/her for perversion of justice. The Judge knows that I lodged a complaint against the Judges that have considered my case of a lack of impartiality, bias, perversity and organised crime. In the Order that the Judge Johnson has issued today, he/she is playing in favour of his/her fellow colleagues, lacking in impartiality and incurring perversion of justice. Furthermore this is a new indication that this an alleged case of organised crime in this Tribunal.”

12. By a second letter sent eight minutes later the claimant stated as follows:-

“I am hereby challenging the decision the Judge Johnson has issued today – related to the online publication of the Judgment – and apply for a reconsideration on the following grounds:

(1) The Judge has ignored my complaint for lack of impartiality, bias, perversity and alleged organised crime. Ignoring this fact shows that the Judge in case in lack of impartiality, bias, perversity and alleged organised crime.

(2) Facts clearly indicate that this Judgment is a perversion of justice and that the publication is trying to kill professionally the claimant, which incurs, once more, in perversion of justice. This is a tyrannic action made in the name of the Crown.

(3) This Judgment has been appealed to the EAT and the case is pending. Therefore the Judgment is not definitive.”

13. The claimant then submitted a second notice of appeal to the Employment Tribunal, paragraph 7 of which states as follows:-

“The publication of the Judgment containing sensitive personal information and confidential details constitutes a breach of privacy and confidentiality. This violation raises serious concerns about the protection of individual rights and the proper handling of confidential information within the judicial system.”

The claimant goes on to state in paragraph 8:-

“The inclusion of defamatory statements and false information in the published Judgment poses a significant threat to my personal and professional reputation. Such inaccuracies and damaging remarks not only misrepresent the facts but also mislead the public and perpetuate harm to my character and standing in the community. Put simply – the publication of such information seeks the aim – to kill me professionally, such a tyrannic act which is made in the name of the Crown.”

14. The Tribunal treats the most recent correspondence from the claimant in respect of the online publication of the original Judgment, as an application for a reconsideration pursuant to Rule – 72 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 of the claimant’s application for the removal of the original Judgment from the Register. The Tribunal treats the claimant’s application as one made pursuant to Rule 50 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

15. Rule 67 “The Register” states as follows:-

“Subject to Rules 50 and 94 (and with the exception of Judgments for withdrawn claims under Rule 53) a copy shall be entered in the Register of any Judgment and of any written reasons for a Judgment.”

16. To give effect of that rule, there is a public register of Tribunal Judgments and written reasons. All such Judgments and reasons are entered in it and available for public (and press) scrutiny, except in cases of National Security or where the Tribunal has sat in private. The Tribunal does have a discretion to delete matters from the public copy of a Judgment and Reasons by applying Rule 50. Indeed the requirement in Rule 67 for Judgments to be entered on the register is expressly subject of any Order made under Rule 50. However, Rule 50 cannot be used to prevent publication of a Judgment altogether, as that is only possible in cases raising issues of National Security. The Tribunal’s powers under Rule 50 include Orders at all or part of a hearing is conducted in private, or that no reference is made in open court to the identity of a particular person, or to a particular evidence, of an Order permanently anonymising the parties. Rule 50(1) states as follows:-

“(1) A Tribunal may at any stage of the proceedings, on its own initiative or on application, make an order with a view to preventing or restricting the public disclosure of any aspect of those proceedings so far as it considers necessary in the interests of justice or in order to protect the Convention rights of any person or in the circumstances identified in section 10A of the Employment Tribunals Act.

(2) In considering whether to make an order under this rule, the Tribunal shall give full weight to the principle of open justice and to the Convention right to freedom of expression”.



**Case Number: 2500896/2022**

G Johnson

**Employment Judge Johnson**

Date: 29 August 2023