



EMPLOYMENT TRIBUNALS

Claimants: Mr S Ward and 5 others (as Schedule A)
Mr M Przystanski and 26 Others (as Schedule B)
Mr T Andrews (and 141 others)

Respondent: Bournemouth Transport Limited (in Administration) (1)
Redundancy Payments Service (2)

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

Heard at: Southampton (by video) **On:** 13 November 2023

Before: Employment Judge Gray **and Members:** Mrs Killick and Mr Richardson

Appearances

For the Ward Claimants: Mr Earl
For the Przystanski Claimants: Mr Lewis (Solicitor)
For the Andrews Claimants: Mr Harris (Counsel)

For the Respondents: Did not attend and were not represented

JUDGMENT

The unanimous judgment of the tribunal is that:

1. The complaint that the First Respondent failed to comply with a requirement of section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 is well founded.
2. The Tribunal makes a protective award in respect of the Claimants grouped under claim number 1403865/2022 being Unite the Union (recognised in respect of certain employees of the First Respondent at its premises in Bournemouth) and the following individual employees of the First Respondent at its premises in Bournemouth:

Case Number: 1402535/2022 and others, 1403785/2022 & 1403865/2022

- Mr Anthony Blackwood
- Mr Paul Robinson
- Mr David Symes
- Mr Malcolm Traylor

who were dismissed or proposed to be dismissed as redundant on or after 5 August 2022 and orders the First Respondent to pay those employees remuneration for the protected period of 90 days beginning on 5 August 2022 for those dismissed and in respect of the 57 employees who it was proposed to dismiss, for a period of 90 days beginning on the 29 July 2022.

3. The Tribunal makes a protective award in respect of the Claimants grouped as Mr S Ward and 5 others (as Schedule A) and Mr M Przystanski and 26 others (as Schedule B), being employees of the First Respondent at its premises in Bournemouth, who were dismissed as redundant on or after 5 August 2022 and orders the First Respondent to pay those employees remuneration for the protected period of 90 days beginning on 5 August 2022.
4. The claim of Mr Russell Ansell is dismissed on withdrawal.

Employment Judge Gray
Date: 13 November 2023

Judgment sent to the Parties: 05 December 2023

For the Tribunal Office

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing, or a written request is presented by either party within 14 days of the sending of this written record of the decision.

SCHEDULE A

- 1402535/2022 – Mr S Ward
- 1402679/2022 – Mr M Earl
- 1402699/2022 – Mr D Gogolewski
- 1402962/2022 – Mr A Ferus
- 1403027/2022 – Mr M Malachowski
- 1403706/2022 – Mr R Parkes

SCHEDULE B - 1403785/2022

Title	First name	Last name	Case Number
Mr	Mariusz	Przystanski	1403785/2022
Mr	Craig	Tortoishell	1403786/2022
Ms	Liva	Rigler	1403787/2022
Ms	Susana	Gardner	1403788/2022
Mr	David	Bowen	1403789/2022
Ms	Samantha	Motteram	1403790/2022
Mr	Kevin james	Cornhill	1403791/2022
Mr	Andrew	Grinstead	1403792/2022
Ms	Fiona	Harwood	1403793/2022
Ms	Carolyne	Atkins	1403794/2022
Mr	Graham	Atkins	1403795/2022
Ms	Carolyn	Atkins	1403796/2022
Ms	Elizabeth	Grover	1403797/2022
Mr	Andrew	Peachey	1403798/2022
Ms	Amylee	Holmes	1403799/2022
Mr	Stephen	Foot	1403800/2022
Ms	Pauline	Foot	1403801/2022
Mr	Robert	Batson	1403802/2022
Ms	Teresa	Ofe	1403803/2022
Mr	Darren	Langley	1403804/2022
Mr	Ken	Davies	1403805/2022
Mr	Dominic	Wright	1403806/2022
Mr	Patricia	Rawlins	1403807/2022
Mr	Ashley	Redman	1403808/2022
Ms	Susan	Wray-Cook	1403809/2022
Ms	Rachael	Wray-Cook	1403810/2022
Ms	Debbie	Jones	1403811/2022

**ANNEX TO THE JUDGMENT
(PROTECTIVE AWARDS)**

Recoupment of Jobseeker's Allowance, income-related Employment and Support Allowance and Income Support

The following particulars are given pursuant to the Employment Protection (Recoupment of Jobseekers Allowance and Income Support) Regulations 1996, SI 1996 No 2349, Regulation 5(2)(b), SI 2010 No 2429 Reg.5.

The respondent is under a duty to give the Secretary of State the following information in writing: (a) the name, address and National Insurance number of every employee to whom the protective award relates; and (b) the date of termination (or proposed termination) of the employment of each such employee.

That information shall be given within 10 days, commencing on the day on which the Tribunal announced its judgment at the hearing. If the Tribunal did not announce its judgment at the hearing, the information shall be given within the period of 10 days, commencing on the day on which the relevant judgment was sent to the parties. In any case in which it is not reasonably practicable for the respondent to do so within those times, then the information shall be given as soon as reasonably practicable thereafter.

No part of the remuneration due to an employee under the protective award is payable until either (a) the Secretary of State has served a notice (called a Recoupment Notice) on the respondent to pay the whole or part thereof to the Secretary of State or (b) the Secretary of State has notified the respondent in writing that no such notice is to be served.

This is without prejudice to the right of an employee to present a complaint to an Employment Tribunal of the employer's failure to pay remuneration under a protective award.

If the Secretary of State has served a Recoupment Notice on the respondent, the sum claimed in the Recoupment Notice in relation to each employee will be whichever is the lesser of:

- (i) the amount (less any tax or social security contributions which fall to be deducted therefrom by the employer) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Secretary of State receives from the employer the information referred to above; OR
- (ii) the amount paid by way of or paid as on account of Jobseeker's Allowance, income-related Employment and Support Allowance or Income Support to the employee for any period which coincides with any part of the protective period falling before the date described in (i) above.

Case Number: 1402535/2022 and others, 1403785/2022 & 1403865/2022

The sum claimed in the Recoupment Notice will be payable forthwith to the Secretary of State. The balance of the remuneration under the protective award is then payable to the employee, subject to the deduction of any tax or social security contributions.

A Recoupment Notice must be served within the period of 21 days after the Secretary of State has received from the respondent the above-mentioned information required to be given by the respondent to the Secretary of State or as soon as practicable thereafter.

After paying the balance of the remuneration (less tax and social security contributions) to the employee, the respondent will not be further liable to the employee. However, the sum claimed in a Recoupment Notice is due from the respondent as a debt to the Secretary of State, whatever may have been paid to the employee, and regardless of any dispute between the employee and the Secretary of State as to the amount specified in the Recoupment Notice.