



EMPLOYMENT TRIBUNALS

Claimant: Mrs K. Caesar

Respondent: Kings College Hospital NHS Trust

JUDGMENT

To the extent the claimant's claim form was coded and included a complaint under section 47B of the Employment Rights Act 1996 (being subjected to a detriment on the ground that the claimant had made a protected disclosure) that claim is dismissed

REASONS

1.This case was the subject of a case management hearing on 18 July 2019 before Employment Judge Hyde and the issues were identified. It did not include any complaint under section 47B Employment Rights Act 1996.

2.The respondents note of that hearing (although the Employment judge's note is silent) is that the complaint was not to be pursued.

3.Following a substantive hearing concluding on 01 June 2023 the claimant's claims were dismissed. At the start of the hearing the tribunal identified the issues with the parties. Both parties agree the issues. The issues did not include a complaint under section 47B.

4.The tribunal became aware, following the conclusion of the case, that the file could not be closed for administrative reasons because it still contained a coding in respect of a public interest detriment. The substantive hearing had been conducted remotely and the tribunal did not have a copy of the paper file. Employment Judge T.R.Smith therefore wrote to the parties on 27 July 2023 indicating he proposed to issue judgement dismissing any such claim that might exist but allowed the parties time to make representations.

5.On 09 August 2023 the claimant accepted that she had not raised the issue either at the preliminary or final hearing but objected to dismissal and asked for time to make further representations. She subsequently did so and indicated she wished to bring a claim under section 47B.

6.The respondent considered that any such claim that might exist should be dismissed having regard to the agreed issues.

7. The tribunal determined that any complaint that might exist under section 47B should be dismissed. The tribunal considered it unlikely the claimant would have raised the matter had not been brought to her attention in the correspondence of 27 July 2023. The claim had no reasonable prospect of success and had not been actively pursued and the claimant, having the opportunity to have raised the matter on two previous occasions and had failed to do so.

Employment Judge T R Smith
Date: 2 November 2023