



EMPLOYMENT TRIBUNALS

Claimant

Respondents

Mr James Esses

v (1) The Metanoia Institute
(2) United Kingdom Council for
Psychotherapy
(3) Pamela Gawler-Wright

Heard at: London Central
(By Cloud Video Platform)

On: 05 February 2024

Before: Employment Judge B Beyzade

Representation

For the Claimant: Mr Peter Daly, Solicitor

For the Respondents: (1) Not present or represented (1st respondent)
(2) Not present or represented (2nd respondent)
(3) Mr Ian Hurst, Solicitor (3rd respondent)

JUDGMENT

The judgment of the Tribunal is that:

1.1 The third respondent's application for costs dated 24 October 2022 is dismissed;

1.2 The claimant's complaints against the second respondent having been withdrawn by the claimant, are dismissed under Rule 52 of the Rules

contained in Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. The remainder of the claimant's complaints (which are, for the avoidance of doubt, pursued against the first respondent only) shall proceed to Final Hearing on dates to be determined.

1.3 A Preliminary Hearing (Case Management) in private be listed for 2-hours at London Central Employment Tribunal, Victory House, Ground Floor, 30- 34 Kingsway, London, WC2B 6EX by Cloud Video Platform before an Employment Judge on the first available date after 01 April 2024 in order to determine the List of Complaints and Issues, to issue further Case Management Orders, and to list the claimant's claim for Final Hearing.

1.4 Case Management Orders are made under separate cover.

REASONS

1. By a complaint dated 08 September 2021 (assigned claim number 2206164/2021) the claimant presented a complaint of direct discrimination, harassment, and victimisation against the first and second respondent.
2. The claimant relies on the protected characteristic of religion or belief (see section 10 of the Equality Act 2010).
3. By a complaint dated 19 October 2021 (assigned claim number 2206708/2021) the claimant presented a complaint of victimisation against the second respondent and third respondent.
4. The Reserved Judgment of the Tribunal following a Preliminary Hearing on 14, 15 and 16 June 2022 was sent to parties on 03 October 2022, in the following terms:

"1.1 The Tribunal does not have jurisdiction to hear the claimant's claims against the second respondent that were made pursuant to section 53 of

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the Equality Act 2010 (section 54 of the Equality Act 2010 being the relevant interpretation provisions);

1.2 the Tribunal has jurisdiction to hear the claimant's complaints brought against the second respondent on the basis that it is a trade organisation for the purposes of section 57(7)(c) of the Equality Act 2010;

1.3 the complaint for victimisation issued under claim number 2206708/2021 insofar as it was brought against the third respondent is struck out pursuant to Rule 37(1)(a) of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 on the ground that it has no reasonable prospect of success. For the avoidance of doubt, the claim brought under claim number 2206708/2021 against the second respondent shall continue (parties are referred to the Tribunal's directions below in respect thereof);

1.4 The claimant's claim issued under claim number 2206164/2021 to the extent that this is made based on the claimant's contention that UKCP is liable for the termination of the claimant's contract with the first respondent as a principal of the first respondent under sections 109 and 110 of the Equality Act 2010 stands struck out;

1.5 Except as set out above, the remainder of the second respondent's application dated 7 December 2021 for a strike out order or a deposit order in respect of the claimant's claims lodged under claim number 2206164/2021 is dismissed."

5. Following receipt of the Reserved Judgment issued to parties on 03 October 2022, Mr Ian Hurst of Duncan Lewis Solicitors, acting on behalf of the third respondent, made an application for costs.
6. The Tribunal issued directions relating to the third respondent's costs application on 10 November 2022. Following representations received in writing from parties' representatives, the third respondent's application was listed for hearing before Employment Judge Beyzade at London Central Employment Tribunal by Cloud Video Platform ("CVP").

7. The case called before me for a hearing by CVP on 05 February 2022 at 10.00am. As none of the parties or their representatives were present at 10.00am, I delayed the start time of the Hearing until 10.20am. The start time of the Hearing was further delayed in order to allow further time for the third respondent's representative to join the CVP Hearing.
8. When the Hearing reconvened at 10.37am, Mr Peter Daly, Solicitor for the claimant was present. No other party was present or represented. I decided to start the Hearing in the absence of the other parties on the basis that Notice of Hearing had been issued in advance of the Hearing to all parties advising that the Hearing is due to start on 05 February 2024 at 10.00am and the Hearing had been delayed in order to allow a further opportunity for parties or their representatives to join (albeit late). I indicated to Mr Daly that the third respondent's representative sent an email to the Tribunal this morning at 10.20am advising that the third respondent said that their claim was withdrawn last week.
9. Mr Daly advised that the Tribunal complaints against the second and third respondent had been withdrawn, and the Employment Appeal Tribunal appeals against both the second and the third respondents had also been withdrawn. I advised that the claim against the third respondent had been dismissed pursuant to the Reserved Judgment issued to parties on 03 October 2022. I explained that I did not understand Mr Daly's reference to the claim against the third respondent being withdrawn. Mr Daly stated that he understood that the third respondent's costs application had been withdrawn, and further, that both the Employment Tribunal and Employment Appeal Tribunal proceedings against the second and third respondent had been concluded.
10. Mr Daly forwarded a copy of the third respondent's email dated 01 February 2024 to the Clerk to the Tribunal, in which the Tribunal was advised that upon agreement having been reached between the parties that the third respondent wished to withdraw all costs applications in the litigation made by her.

11. Mr Ian Hurst, Solicitor for the third respondent joined the CVP Hearing at that stage, at 10.48am. I summarised the matters that Mr Daly had confirmed during the course of the Hearing, and I advised that a copy of Mr Hurst's email dated 01 February 2024 sent at 2.50pm had been forwarded to the Tribunal by Mr Daly.
12. Mr Hurst confirmed that the costs application made by the third respondent's representative on behalf of the third respondent dated 24 October 2022 is withdrawn. Mr Daly requested that I dismiss the third respondent's application following its withdrawal. The third respondent's representative did not object.
13. On the claimant's representative's request, and on the third respondent's representative not objecting, I dismissed the application for costs made by the third respondent's representative on behalf of the third respondent dated 24 October 2022.
14. The claimant's representative advised that that was the end of the proceedings against the third respondent and the claimant did not wish to make any further applications relating to the third respondent. The third respondent's representative advised that there were no consequential matters and no further applications were pursued by the third respondent. Having obtained permission from the Tribunal, Mr Hurst logged out of the CVP Hearing thereafter.
15. Mr Daly, who remained in the CVP Hearing, advised that the complaints against the second respondent were withdrawn. He further advised that the claimant confirmed their consent to a dismissal Judgment being issued by the Tribunal on withdrawal of the claim against the second respondent on 6 December 2023. Therefore, upon the claimant's withdrawal of the complaints against the second respondent, and upon the claimant not objecting, I dismissed the claimant's complaints against the second respondent pursuant to Rule 52 of Schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013.

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16. In order to ensure that the claimant's outstanding complaints (which are, for the avoidance of doubt, pursued against the first respondent only) could proceed to a Final Hearing as soon as possible, I listed a Preliminary Hearing (Case Management) in private for 2-hours at London Central Employment Tribunal, Victory House, Ground Floor, 30- 34 Kingsway, London, WC2B 6EX by Cloud Video Platform before an Employment Judge on the first available date after 01 April 2024 in order to determine the List of Complaints and Issues, to issue further Case Management Orders, and to list the claimant's claim for Final Hearing.

17. Case Management Orders have been issued under separate cover.

Employment Judge Beyzade

Dated: 05 February 2024

Sent to the parties on:

.....8 February 2024.....

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For the Tribunal Office

Notes

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.

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Recording and Transcription

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Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved, or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>