Neutral Citation Number: [2024] EAT 116

Case No: 2022-000705-LA

EMPLOYMENT APPEAL TRIBUNAL

Rolls Building
Fetter Lane, London, EC4A 1NL

Date: 22 July 2024

Before :

BRUCE CARR KC, DEPUTY JUDGE OF THE HIGH COURT

- -

Between:

AEL **Appellant**

- and -

FLIGHT CENTRE (UK) LTD **Respondent**

- -
- -

The **Appellant**, in person
The **Respondent**, did not appear and was not represented

Hearing date: 4 June 2024

- -

JUDGMENT

SUMMARY

Practice and Procedure – Anonymity Order

The Employment Tribunal erred in failing to consider the application for reconsideration of the correct application for anonymity which the Appellant had made. The Appellant had made two relevant applications for anonymity – the first, dated 14 July 2021, was rejected by the Tribunal in a judgment dated 26 July 2021. The Appellant then made a further application on 4 August 2021 supported by a disability impact statement and medical records. That application was considered by the ET on 9 September 2021, by which point the Appellants claims against her former employer had been compromised. The 4 August 2021 application was rejected by the Tribunal under the terms of a decision issued on 9 September 2021. The Appellant applied for reconsideration of that decision on 17 September 2021. However, when that application was considered by the Tribunal under the terms of a decision issued on 21 March 2022, it was treated not as an application in respect of the decision issued on 9 September 2021 but as one made by reference to the earlier decision of 26 July 2021. To that extent therefore, it appeared that the ET had fallen into error

In addition, whilst the reconsideration application of 17 September 2021 should not have been looked at under Rule 70 (as the rejection of the anonymity application was a "case management order" and not a "judgment"), given that the ET had never given proper consideration to the 4 August 2021 as one to vary an earlier case management order, the appeal was allowed.

BRUCE CARR KC, DEPUTY JUDGE OF THE HIGH COURT:

The parties to the appeal

1. For the purpose of this judgment, I will refer to the parties using the titles that they held in the Employment Tribunal (**ET**"). The Claimant was employed by the Respondent as a Management Information Analyst from September 2018 to April 2020. She was dismissed from that employment on 16 April 2020. By a Notice of Appeal dated 27 April 2022, she sought to challenge a decision of the ET (Employment Judge ("**EJ**") Wright) sent to the parties on 21 March 2022 pursuant to which it had declined to the Claimant's application for reconsideration which she was said to have made on 14 July 2021.

2. The Respondent, through its solicitors wrote to the EAT on 14 August 2023 confirming that it was not opposing the Claimant's appeal and would not be attending the hearing before me. Their position was confirmed in a further letter sent to the EAT on 13 November 2023. The appeal therefore proceeds on that basis with the Claimant representing herself and the Respondent not opposing or otherwise taking any part in the proceedings.

Relevant procedural history

3. The Claimant issued 2 sets of proceedings in the ET – the first ("**Claim 1**") was presented to the ET on 12 May 2020. In Claim 1, the Claimant advanced allegations under sections 47B, 94 and 103A Employment Rights Act 1996 ("**ERA**") – whistleblowing detriment, unfair dismissal and automatic unfair dismissal. In the same proceedings, she also made and application for interim relief under section 120 ERA. Her second claim ("**Claim 2**") was presented on 16 August 2020. In Claim 2, she made allegations of discrimination, harassment and victimisation under the Equality Act 2010 ("**EqA**"). Within the same claim, she also repeated her claims under sections 47B, 94 and 103A ERA.

4. The Claimant's application for interim relief made under Claim 1 was considered by EJ Martin at a hearing on 23 September 2020. EJ Martin's judgment was sent to the parties on 25 September 2020 and was

placed on to the public register of judgments. The Claimant's name and the nature of the claims that she had brought against the Respondent were therefore in the public domain. The application was refused but was followed shortly thereafter, on 5 October 2020, by an application for reconsideration. That application was also refused under the terms of a Judgment by EJ Martin dated 12 October 2020 and again, that Judgment was placed on the public register.

5. At a hearing held on 9 April 2021, EJ Hyams-Parish dealt with applications made by the Respondent to strike out claims of religion and belief discrimination and unfair dismissal brought in Claims 1 and 2. The applications by the Respondent were successful and both claims were duly struck out as set out in a Judgment and Reasons sent to the parties on 11 June 2021. EJ Hyams-Parish's judgment was put on to the public register of judgments on 14 July 2021. The Claimant applied for reconsideration of the strike out decision which was dismissed by EJ Hyams-Parish under the terms of a Judgment dated 2 July 2021, which was again placed on the public register. There are therefore in total 4 separate ET Judgments (with Reasons) which are in the public register and which therefore continue to be in the public domain.

6. On 14 July 2021, the Claimant made an application ("**the First Rule 50 Application**") to the ET for an anonymity order under Rule 50 Employment Tribunals (Rules of Procedure) 2013 ("**the ET Rules**"). The application requested that the Claimant's name be anonymised on all public listings and records relating to her claims against the Respondent and that any future hearing take place wholly in private. She also requested a restricted reporting order under section 12 Employment Tribunals Act 1996 and Rule 50(3)(d) ET Rules. In her application, the Claimant made the following points:

a. She was suffering "unwanted intrusions into [her] private life and acts of disturbance" since she had begun proceedings against the Respondent;
b. A search of her name online resulted in confidential information regarding her disability, her previous employers, the reasons for her dismissal, the nature of her claims against the Respondent and "parts of confidential letters", all being available online;
c. The publication of the Judgment of EJ Hyams-Parrish of 25 September 2020, had had the effect of denying her right to privacy and confidentiality and had impacted on her personal and family life;

d. She had been told that she had "zero chance" of securing employment because "potential employers can see that [she had] brought whistleblowing, discrimination and other complaints in the Employment Tribunal."

e. Sharing personal information about her disability and related medical information would "have a further detrimental impact on [her] psychological well-being causing further stress and distress."

7. The Claimant's application for anonymity was then considered by EJ Wright. On 26 July 2021, ("**the Wright Decision**") the ET wrote to the Claimant as follows:

> "The Claimant's application under R50 is refused. The principle of open justice applies. The question of whether or not the Claimant is disabled has not yet been determined."

8. On 4 August 2021, the Claimant made a further application for anonymity ("**the Second Rule 50 Application**"). She asked that the application be placed before Regional EJ Freer ("**REJ Freer**"). She also referred to her previous application and its rejection by EJ Wright on 26 July 2021 and also to the fact that on 16 June 2021, she had been requested by the ET to complete a disability impact statement. The statement that she produced was also dated 4 August 2021 and was attached to the application to REJ Freer. She also provided a number of medical records in support of her application. She also stated that:

> "In the hypothetical scenario that the parties may find alternative solutions to end their disputes before the final hearing listed for October 2022, this application under Rule 50…. will remain valid."

9. Shortly thereafter, the parties did indeed find a "solution to end their disputes." On 14 August 2021, the Claimant's claims against the Respondent were compromised and Claims 1 and 2 were withdrawn. The 4 August 2021 application for anonymity had not yet been considered at that point. The Claimant wrote to the ET that day to notify them of the fact that a compromise that had been reached and that the claims were being withdrawn.

10. The Second Rule 50 Application was not in the event considered by REJ Freer but was put before EJ

Abbott who instructed the ET to write to the Claimant on 9 September 2021 ("**the Abbott Decision**") in the following terms:

> "Your application for a Rule 50 order has already been considered and refused by Employment Judge Wright. I refer you to the Tribunal's letter of 26 July 2021."

11. On the face of it therefore, the ET, in the form of the Abbott Decision, did not look at the substance of Claimant's application of 4 August 2021 (the Second Rule 50 Application) in the changed circumstances which prevailed at that time, namely that she had been ordered to produce and had produced a disability impact statement (together with medical records relating to her condition) and her claims had been compromised with the effect that the question of disability, raised in the Wright Decision, would never fall for consideration in her ET proceedings.

12. The Claimant responded to the ET on the same day (9 September 2021). In her email of that date, she referred to the fact that she had made the Second Rule 50 Application on 4 August 2021, after the date of the ET's letter of 26 July 2021 and stated that she wished for that application to be reconsidered.

13. She then sent a further email to the ET on 17 September 2021 in which she asked REJ Freer to consider her "application under Rule 71 (ref. the last ET decision dated 9 September 2021)". She set out over a two-page document a number of reasons why the ET should reconsider the Abbott Decision.

14. The next communication that the Claimant received from the ET was a letter dated 21 March 2022 and which read as follows:

> "The claimant's reconsideration application of the decision taken and communicated to her on 26/7/2021 has recently been referred to Employment Judge Wright. Judge Wright has refused the claimants reconsideration application. Employment Judge Martin's judgement on the interim relief application (heard at an open/public hearing) was promulgated on 25/9/2020 and it appears was entered on the Public Register of Judgments on 2/10/2020. Of course, that register is now available to search online. There was a further open/public hearing before Employment Judge Hyams-Parish on 9/4/21. Those judgments were entered on the register on

> 14/7/2020. One. It would seem promulgation of those judgments prompted the claimant to make her application of 14/7/21.
>
> The fact of the claimant's litigation and the name of her former employer was in the public domain from 2/10/2020. As was the fact that her claim was for dismissal for making protected disclosures. Information was in the public domain for a considerable period of time before the claimant made her application. The principle of open justice must override any potential embarrassment to the claimant. Anonymity and restricted reporting orders are only granted in exceptional circumstances on a limited basis; neither of which applied in this case."

The Appeal to the Employment Tribunal

15. The Claimant appealed against the ET's decision of 21 March 2022. Her Notice of Appeal took a number of points including some relating to the principle of open justice and the fact EJ Wright had not considered her disability impact statement and connected medical records which of course had been submitted with her application of 4 August 2021.

16. The appeal was first considered by Eady J in February 2023. Her decision, communicated to the Claimant in a letter from the EAT was that the appeal was not reasonably arguable and should therefore be dismissed under Rule 3(7) EAT Rules. The Claimant indicated that she wished to take her appeal to an oral hearing as she was entitled to do so under Rule 3(10) EAT Rules.

17. The Rule 3(10) hearing was scheduled to take place before HHJ Shanks on 26 July 2023. However, in advance of that hearing taking place, the Claimant applied, on 9 July 2023 for an anonymity order for the purposes of her ongoing appeal to the EAT. That application was considered by HHJ Shanks on 21 July 2023 who concluded that it was appropriate to make such an order given that the appeal itself raised the issue of anonymity. It was therefore ordered that the Claimant should be referred to a "AEL" for the purposes of the appeal and until the outcome of the Rule 3(10) hearing.

18. The Rule 3(10) hearing duly took place on 26 July at which it was ordered that the appeal should proceed to a full hearing. In addition, both the Attorney General and the London South Regional Employment Judge should be notified of the appeal – the former with a view to deciding whether to apply to join the appeal;

the latter with a view to making observations. HHJ Shanks took the view that it was arguable that EJ Wright in making her decision of 21 March 2022, had failed properly to engage with the points that the Claimant had made in her application for anonymity and had failed to carry out any kind of balancing exercise in her consideration of it. The invitations that were extended to the Attorney General and to the Regional Employment Judge were made on the basis that there were potential issues of importance raised on the appeal with regard to the principle of open justice and the solutions, if any, that were available to deal with a situation in which a Claimant faced problems with her employment as a consequence of their name being searchable of a website containing a record of ET decisions.

19. Acting REJ Balogun wrote on behalf of London South ET on 3 August 2023. In her letter, she made reference to the obligation to maintain a register of public judgments and to an issue relating to "data harvesting" which had led to a minor change in the guidance given to Employment Judges on the titles of participants to be used in judgments. The change was to suggest that the initial of the first name of a party should be used rather than their full first name on the launch page of any judgment which was placed on-line.

20. The response on behalf of the Attorney General came in a letter of 18 October 2023. The decision was made that the test for appointing an advocate to the appeal had not been met in that given the case law currently available relating to the making of anonymity order, there was "not a significant risk of an important and difficult point of law being determined without the court or tribunal hearing all relevant arguments." The letter identified and summarised the key cases in this area as follows:

- ***X v Y UKEAT/0302/18/RN*** – A rule 50 order can be made at any time, even where proceedings are substantially over. There may be good reasons for anonymisation under Rule 50 bearing in mind an individual's Article 8 rights;
- ***Tyu v Ila Spa Limited EA-2019-000983-VP*** – when dealing with an application based on reputational damage from checking an appellant's name, that person's Article 8 rights should be considered alongside common law principles of open justice.
- ***F v J [2023] EAT 93*** – ET hearings are not in the public domain simply by virtue of the fact that they have been heard.

Legal Framework

21. Rule 50 ET Rules provides as follows:

> "(1) 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 order under this rule, the Tribunal shall give full weight to the principle of open justice and to the Convention right of freedom of expression.
>
> (3) Such orders may include –
>
> ……..
>
> > (b) and order that the identities of specified parties, witnesses or other persons referred to in the proceedings should not be disclosed to the public, by use of anonymisation or otherwise, whether in the course of any hearing or in its listing or in any documents entered on the register or otherwise forming part of the public record;"

22. The need, notwithstanding the well-recognised principle of open justice, to restrict the extent to which information is kept in the public domain has recently been acknowledged by the Court of Appeal in ***Clifford v Millicom Services Limited [2023] IRLR 295***. In giving judgment in that case, Warby LJ identified the errors in the approach taken by the ET on an application under Rule 50 as follows:

> "32. The EJ should therefore have begun by asking herself whether the derogations sought were justified by the common law exception to open justice. This has been put in various ways in the authorities. In ***Scott v Scott [1913] AC 417(at 439), [1911–13] All ER Rep 1 (at 10)*** Lord Haldane spoke of the need to show 'that the paramount object of securing that justice is done would … be rendered doubtful of attainment if the order were not made'. Earl Loreburn said, [1913] AC 417(at 446), [1911–13] All ER Rep 1 (at 14), that the underlying principle that justified the exclusion of the public was 'that the administration of justice would be rendered impracticable by their

presence'. In ***A-G v Leveller Magazine Ltd [1979] 1 All ER 745, [1979] AC 440*** Lord Diplock spoke of the need to depart from the general rule 'where the nature or circumstances … are such that the application of the general rule in its entirety would frustrate or render impracticable the administration of justice'. Usually, the court's concern will be with the requirements of the due administration of justice in the proceedings before it.

…….

42. As Eady P observed (at [37]–[38]) the factors that need to be weighed in the balance include (a) the extent to which the derogation sought would interfere with the principle of open justice; (b) the importance to the case of the information which the applicant seeks to protect; and (c) the role or status within the litigation of the person whose rights or interests are under consideration: see the decision of this court in ***R v Legal Aid Board, ex p Kaim Todner (a firm) [1998] 3 All ER 541, [1999] QB 966*** (at paras 6 and 8) (Lord Woolf) and ***Libyan Investment Authority (No 2)*** (above) at [34](3).

43. I would add that the decision-maker should bear in mind the harm disclosure would cause and, conversely, the extent to which the order sought would compromise 'the purpose of the open justice principle and the potential value of the information in advancing that purpose': A v BBC at [41] (Lord Reed). The main purposes of the open justice principle were identified by Baroness Hale in ***Dring (on behalf of the Asbestos Victims Support Groups Forum UK) v Cape Intermediate Holdings Ltd [2019] UKSC 38, [2019] 4 All ER 1071, [2020] AC 629*** (at [42]–[43]): (1) 'to enable public scrutiny of the way in which courts decide cases – to hold the judges to account for the decisions they make and to enable the public to have confidence that they are doing their job properly' and (2) 'to enable the public to understand how the justice system works and why decisions are taken'.

44. As a general proposition, it may be said that the more remote an item of information is from the issues requiring resolution in the case the less likely it is that a restriction on its disclosure will offend the open justice principle or compromise its

> purposes.
>
> ……
>
> 54. ……Consideration of Art 8 in this case requires a two-stage process. The first question is whether the conduct under consideration (public disclosure of information by the state in legal proceedings) would involve an 'interference' with a person's art 8 rights. If so, the second question arises: would that interference be justified as necessary in pursuit of one of the legitimate aims identified in art 8(2)?"

23. The burden of establishing any derogation from the principle of open justice lies on the person seeking it and in order to do so, it is necessary to provide 'clear and cogent evidence' that harm will be done to the privacy rights of the applicant if the derogation is not granted (see ***Ameyaw v Pricewaterhousecooper Services Ltd EA-2019-000480***). In addition, and consistent with the need to balance the effect of a restriction on the interests of open justice, the level of press interest in a case will be a factor of relevance (see Lord Hoffman's observations at paragraph 56 in ***Campbell v MGN [2004] AC 457*** to the effect that where an application relates to a public figure or concerns the conduct of senior staff in a public sector workplace, it is likely that arguments based on freedom of expression under Article 10 will carry more weight.

24. In ***X v Y UKEAT/0302/18/RN***, Cavanagh J confirmed that an application for anonymisation can be made at any time, even after proceedings are otherwise over (see paragraphs 46 and 48). In the same case, the Judge also concluded that the EAT has power to grant anonymity orders, saying as follows (at paragraph 52):

> "I have no doubt that the Appeal Tribunal has power to order that parties' names can be anonymised; This has been done on many occasions. The Appeal Tribunal has been granted power to regulate its own procedure by section 30 (3) of the Employment Tribunals Act 1996 and, in any event, in my judgement, it has an inherent power to take steps to protect the parties privacy rights under the Convention (see ***X v . Commissioner of Police of the Metropolis, 2003 ICR 1031).***"

25. Rule 70 ET Rules deals with applications for reconsideration and provides as follows:

> "A Tribunal may, either on its own initiative, (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgement where it is necessary in the interest of justice to do so. On reconsideration, the decision ("the original decision") may be confirmed, varied or revoked. If it is revoked, it may be taken again.

26. The important word for present purposes contained within Rule 70 is "judgment" – the scope of potential applications for reconsideration is therefore limited to decisions which can properly be so described. The definition of "judgment" for the purposes of the ET Rules is set out in Rule 1(3), together with the definition of "case management order". The rule provides as follows:

> "An order or other decision of the Tribunal is either-
>
> (a) a "case management order", or decision of any kind in relation to the conduct of proceedings, not including the determination of any issue which would be the subject of a judgement; or
>
> (b) a "judgment", decision, made at any stage of the proceedings (but not including a decision under rule 13 or 19), which finally determines:
>
> (i) a claim or part of a claim, as regards liability, remedy or costs (including preparation time and wasted costs);
>
> (ii) any issue which is capable of finally disposing of any claim, or part of a claim, even if it does not necessarily do so (for example, an issue whether a claim should be struck out or a jurisdictional issue);
>
> (iii) the imposition of a financial penalty under section 12A of the Employment Tribunals Act."

27. For reasons which will become apparent, also relevant to this appeal are the provisions of Rule 29 ET Rules dealing with case management orders. The rule reads as follows:

> "At any stage of the proceedings, on its own initiative or on application, make a case management order……. A case management order may vary, suspend

> or set aside an earlier case management order where this is necessary in the interests of justice, and in particular where a party affected by the earlier order did not have a reasonable opportunity to make representations before it was made."

28. There are of course limitations in the way in which this power can be exercised and the ability of one judge to alter a case management order made by another judge on an earlier occasion is viewed restrictively. Generally, such a course will be open only where (1) there has been a material change in circumstances since the making of the first order (2) the factual basis on which the original order was made has been found to be incorrect or (3) some other exceptional circumstance in which the interest of justice make this necessary.

Discussion

29. It is clear from Rules 3 and 70 ET Rules that a case management order cannot be reconsidered under the process provided in Rules 71-73 ET Rules. Equally, an application for anonymity made under Rule 50 does not fit within the definition of "judgment" set out in Rule 3(1)(b) ET Rules. It follows from the above that, it was not open to the Claimant to challenge the outcome of a Rule 50 application using the reconsideration process provided for under Rule 70. However, it is equally clear that the ET fell into error in attempting to deal with the Claimant's Second Rule 50 Application.

30. When one looks at the decision of Judge Wright of 21 March 2022, in respect of which this appeal is brought, it is clear on the face of the document that the Judge dealt with the matter on the basis that it was an application for reconsideration of the decision which Judge Wright had herself made on 26 July 2021 (the Wright Decision). That was not in fact the application that the Claimant was making. She had made a further application for anonymity on 4 August 2021 (the Second Rule 50 Application) which fell for consideration by in the Abbott Decision of 9 September 2021. It was that decision which the Appellant sought to challenge by way of an application for reconsideration. More fundamentally, given the definition of "judgment" contained in Rule 3 ET Rules, the ET should not have been 'reconsidering' any purported application to 'reconsider' an application made under Rule 50 – an order made under Rule 50 is plainly a 'case management order' which therefore fall outside the scope of Rule 70. It follows that the ET has erred in three significant respects – first,

it has treated the Claimant's application for reconsideration of the Abbott decision on the basis that it was an application for reconsideration of the Wright Decision which plainly it was not. Secondly, it has purported to deal with the reconsideration application under Rule 70 when in fact that was not open to the Claimant to make any such application. But thirdly – and perhaps most significantly – and as result of looking only at the First Rule 50 Application, it has not at any point considered the Second Rule 50 Application on its merits.

31. I raised this final point with the Claimant during the course of the hearing of her appeal and pointed out to her that her existing Grounds of Appeal did not appear to address this point (as she was unaware of it until I raised it with her). I therefore invited her to amend her Grounds of Appeal to add the following point:

> "The ET erred in failing to determine her application for anonymity dated 4 August 2021 but instead sought to address that application only by reference to her earlier application for anonymity dated 14 July 2021."

32. I then gave the Claimant permission to amend her Grounds of Appeal in those terms. Having done so, and for the reasons stated above, I allow the appeal on the amended ground – the ET has only addressed its mind to the First Anonymity Application and not the second. Properly viewed, the Second Anonymity Application was one to set aside or vary the Wright Decision. The Abbott Decision did no more than to state that the matter had already been dealt with in the Wright Decision without giving any consideration as to whether circumstances had changed or whether there was some other compelling reason why the Abbott Decision should be varied so as to allow for the making of an order under Rule 50.

33. Had this matter been considered under Rule 29, it seems to me that Judge Abbott should have had regard to the circumstances in which the Second Rule 50 Application had been made, in particular by that date:

a. The Claimant had produced a disability impact statement pursuant to an order by the ET and had also disclosed medical records in support of her application;
b. The Claimant's claims had been settled with the effect that one of the principal reasons relied on by Judge Wright for refusing the First Anonymity Application no longer applied. In so far as the Claimant was relying on her stated disability to the justify the making of a Rule 50

Order, Judge Wright had rejected it – rightly or wrongly – on the basis that the question of disability "has not yet been determined" From that statement, one can infer that the Judge was intending to leave open the possibility that the application for anonymity might be renewed if and when the Claimant was found to have been disabled within the meaning of the EqA. Once the Claimant's claims had been compromised, that question was never going to fall for consideration;

c. In my view therefore, the Judge, in dealing with the Second Anonymity Application, was duty bound to look at the matter afresh and in the light of the changed circumstances that prevailed as at that date. In doing so, the Judge would have been obliged to conduct the necessary balancing act in order to determine the question of whether there was an interference with the Claimant's privacy rights under Article 8 and if so, whether such interference was justified under Article 8(2), bearing in mind the principle of open justice. The exercise requires an analysis of the importance of the information relevant to the application and the extent to which disclosure would cause harm to the individual seeking to be anonymised balanced against the extent to which the order sought would compromise 'the purpose of the open justice principle and the potential value of the information in advancing that purpose' (as to which see ***Clifford v Millicom Services Limited*** as set out above).

Disposal

34. It has been made clear by the Court of Appeal in ***Jafri v Lincoln College [2014] ICR 920***, that where the EAT has allowed an appeal, it should generally remit the case back to the ET unless it can be satisfied that if the ET had not erred in law, there could only have been one possible outcome. However, in that case, Underhill LJ suggested that there was no reason why the EAT could not decide an issue which would otherwise have to be remitted if the parties agree (see paragraph 47). In this appeal, there is of course only one party – the Claimant, the Respondent having indicated that it does not resist the appeal or otherwise wish to make submissions in relation to it. That being so, the Claimant has urged me to make a determination on her application rather than remit the matter to the ET. In the particular circumstances of this case, that is a course that I am prepared to take rather than remit the matter to the ET for it properly to consider the Second Anonymity Application.

35. As to that application, it seems to me that the following matters are important:

a. The Claimant was (and is) clearly very distressed by the fact of her name appearing in the public domain in consequence of the claims that she brought against her former employer. Whilst that is of course, not a 'trump card' for a Rule 50 applicant to play, it is in my view relevant to the consideration of her application, particularly where (as is apparent from the terms of her application) she was very concerned about what she saw was a "hostile, detrimental and discriminatory environment" that she was facing;

b. She had reasonable grounds on which to believe that the publication of her name in association with claims of whistleblowing and discrimination, was likely to have a significant impact on her ability to find new employment;

c. Her "psychological well-being" was negatively impacted due to the distress that she felt about medical information about her being in the public domain;

d. She is from an Eritrean background and her personal/medical circumstances were a cause of shame and stigma for those of that ethnicity;

e. Her disability impact statement recounted in considerable detail, the effect of her medical condition on her – she may or may not have been found to be a disabled person within the EqA had this ever come before an ET – but her condition was genuine and supported her assertions as to the level of distress from which she was suffering;

f. The case had settled. There was no press interest in it and it had not reached a full merits hearing and of course was never going to do so. There has been and will not be, any public hearing of the substance of the Claimant's claims. Whilst there were already records of decisions made by the ET which were available on the public register of judgments, given that these were not full merits hearings and that they did not involve any evidence being given or findings of fact made, the extent of the interference with the principle of open justice was limited;

g. The Respondent had raised no objection or concern about the making of an order – whilst this is of course not determinative of an application (as the wider public interest is at stake) – it is

of some relevance that it had not objected to an order being made.

36. I am therefore prepared to make an anonymity order by reference to the powers of the EAT under section 35(1) Employment Tribunals Act 1996 ("**ETA**") (under which I am entitled exercise any of the powers of the ET) and/or under the powers recognised by Cavanagh J in ***X v Y*** (section 30(3) ETA and/or the EAT's inherent powers). The order shall take the form of granting anonymity to the Claimant by use of the initials "AEL" (as has already been ordered by HHJ Shanks in the course of the appeal proceedings) in substitution for her own name. The anonymity will also extend to those judgments in the matter which are currently visible on the public register of judgments and those judgments will need to be revised in order to remove the Claimant's actual name and to substitute her name with the same initials.