



EMPLOYMENT TRIBUNALS

Claimant: Mr Jeffery Hinds

Respondent: British Boxing Board of Control Limited

Heard at: Reading **On: 22, 23, 24, 25 July and (for tribunal deliberations) 23 August 2024**

Before: Employment Judge Gumbiti-Zimuto
Members: Ms S Hughes and Mr F Wright

Appearances
For the Claimant: In person
For the Respondent: Mr T Mountford, counsel

RESERVED JUDGMENT

The claimants complaints are not well founded and are dismissed.

REASONS

1. In a claim form presented on the 20 December 2021 the claimant made complaints of direct race discrimination and victimisation. The respondent defends the claims.
2. The issues to be decided in this case were set out in a record of preliminary hearing on the 27 September 2022 where Employment Judge Hyams set out the following:

Introduction; the claim

1. The claimant is a boxing referee. He is licensed to act as such a referee by the respondent. The respondent accepts that it is a qualifications body within the meaning of section 54 of the Equality Act 2010 ("EqA 2010"). The claim brought in these proceedings is (as agreed by the claimant during the hearing of 27 September 2022, but not stated explicitly in the claim form and the document appended to it) brought under sections 53(2)(c) and 53(5)(c) of the EqA 2010.

2. *The claimant's case (as discussed at length on 27 September 2022) is of direct discrimination within the meaning of section 13 of the EqA 2010 because of his race and victimisation within the meaning of section 27 of that Act. The claim of victimisation is based on things which the claimant said in a written statement to the respondent. The claimant read out parts of that statement to me during the hearing of 27 September 2022, and it was clear from it that, while he referred in it to for example victimisation when he was plainly not meaning to refer to victimisation within the meaning of section 27 of the EqA 2010, he did refer by implication at least to the possibility that he had been discriminated against directly because of his race. He is black, and of Afro-Caribbean origin. He is, he told me on 27 September 2022 (as I noted; I trust that I noted this correctly), one of only two boxing referees currently licensed by the respondent to act as such referees in the United Kingdom.*

3. *The statement... was entitled "My Statement" and had under that heading these words: "My Observations – Southern Area Council – September 4th 2019". The statement did not refer expressly to the claimant's race, but ... when read as a whole and against the background of the claimant's race could be taken to have been a protected act within the meaning of section 27 of the EqA 2010. Whether it was such will, if the claim proceeds (see below), be a matter for the tribunal which determines the claims made in these proceedings.*

4. *Those claims are about a decision which was communicated to the claimant in a letter written by Mr Robert Smith, the respondent's General Secretary, and dated 17 July 2020. That decision was to cease to allocate to the claimant work as a referee. The claimant told me that whenever he worked as a referee, he was allocated the work in question by the respondent, and the promoter of the fight in question paid him for the work. That was because the respondent was the allocator of referees for fights, and each promoter of those fights then entered into a contractual agreement with the allocated referee in respect of the fight.*

...

6 *The claimant's claim of direct discrimination because of race relies on a hypothetical comparator and*

6.1 *the fact that he was, he believed, the only person licensed by the respondent in any way ever to have been in effect suspended by the respondent without being*

given a hearing to contest the proposed suspension before it was imposed, and

6.2 the paucity of black persons licensed by the respondent to act as referees.

...

10 The issues are in the above circumstances these.

10.1 Did the claimant do a protected act within the meaning of section 27(2) of the EqA 2010 when he made the statement to which reference is made in paragraphs 2 and 3 above?

10.2 If so, was the decision of 17 July 2020 made, and/or did the confirmation of that decision in November 2020 occur, to any material extent because the claimant had done such protected act?

10.3 Was the decision of 17 July 2020 made, and/or did the confirmation of that decision in November 2020 occur, to any material extent because of the claimant's race?

10.4 In answering the two preceding questions, the the following questions will arise.

10.4.1 Has the claimant satisfied the tribunal that there are facts from which the tribunal could, in the absence of an explanation from the respondent, decide that either decision (1) was to any extent less favourable treatment of the claimant because of his race or (2) detrimental treatment within the meaning of section 27(1) of the EqA 2010 because he had made the statement referred to in paragraphs 2 and 3 above?

10.4.2 If so, has the respondent satisfied the tribunal on the balance of probabilities that race and/or that statement was not a significant, i.e. (applying, as the majority of the reported appellate cases do, Nagarajan v London Regional Transport [2001] 1 AC 510, despite what was said in Igen v Wong [2005] ICR 931) more than trivial, cause of the manner in which the claimant was treated by the respondent as described in paragraphs 10.2 and 10.3 above?

10.4.3 Alternatively, applying the decision of the House of Lords in Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] ICR 337, what was the reason for that treatment?

3. A further preliminary hearing took place on 13 February 2023 when the Employment Judge Shastri-Hurst decided that the employment tribunal could consider the claimant's claim having regard to the time limits for the presentation of complaints under the Equality Act 2010.

4. The claimant gave evidence in support of his own case and the respondent relied on the evidence of Robert Smith, Charles Giles, Ron Pavett, Michael Collier, Robyn Smith, John Handelaar and Dennis Gilmartin. All the witness produced statements which were taken as their evidence in chief. The Tribunal was also provided with an agreed trial bundle containing 602 pages of documents and a disputed trial bundle containing a further 21 pages of documents. From these sources we made the following findings which we considered necessary to decide the issues in the case.
5. The claimant was appointed by the British Boxing Board of Control (BBBofC) as a B Class professional boxing referee from 14 August 1991. The claimant was appointed as an A class professional boxing referee from 11 August 1999.
6. The BBBofC has Rules and Regulations that govern its operation and the membership. Regulation 24 provides that the Board can consider complaints from members. Regulation 25 provides that the Board may require a member to appear before it in connection with any allegation of misconduct by any person. Regulation 28 provides that a member affected by a decision of the Board may appeal against the decision. Regulation 29 of provides that *"The Board, Area Council or a Committee appointed by the Board may, on its own initiative, require any member to appear before it on any matter relating to the conduct of professional boxing."*
7. On a number of occasions during his career as a referee the claimant has had to appear before the Board pursuant to rule 25 or rule 29.
8. On 2 March 2019 the claimant officiated a bill of boxing bouts at York Hall Bethnal Green. Events on that night led to a report being submitted by another referee which resulted in the claimant being called before the board pursuant to regulation 25.
9. The regulation 25 hearing took place on the 5 June 2019. There is a dispute between the claimant and the respondent as to what happened at that hearing.
10. The claimant states that at the end of the hearing he was told *"The Southern Area Council has treated this matter very seriously and we find the case is not proven- you are not guilty of misconduct you will get this in writing."*
11. The claimant received a letter dated 6 June 2019 from the Southern Area Secretary, Dennis Gilmartin. The letter reads:

Re; Regulation 25 Hearing – 5th June 2019

Thank you for your appearance at the above mentioned hearing.

As was advised to you directly following the hearing, I write to confirm the decision of the Southern Area Council on this matter.

The Council gave you words of advice for the future. This conclude the matter.

12. The claimant took issue with the letter and attempted to get the letter changed he contacted the Secretary and Chairman of the Southern Area Council. Unable to get satisfaction the claimant wrote to individual members of the Southern Area Council. An example of this is the letter to Bill Edwards of the Southern Area Council (p230) in which the claimant was asking for the letter to be changed to read that:

The Chairman M. Collier said ‘we have given this Regulation 25 matter thorough consideration and the Council find the case to be Not Proven, You are found Not Guilty of Misconduct.

13. The claimant objected to the way that the decision had been set out on the BBBofC website where it was stated that the “*Jeffery Hinds was given words of advice for the future*”. This entry, which the respondent’s counsel described to the claimant as “*innocuous*”, was the source of anxiety for the claimant who said of that characterisation that he did “*not accept that at all*”.
14. The claimant was invited, pursuant to regulation 29, to a meeting on the 4 September 2019 to discuss “*several correspondences ... to individual members of the Council regarding [the] decision*”.
15. At the meeting it was explained to the claimant that his contacting individual members of the Council about a decision of the Council was inappropriate. The claimant went through some of his correspondence with the Secretary and then read out a prepared statement (p234). Although the statement does not specifically mention race discrimination it is clear from the note of the meeting that the claimant was complaining about “*race*”.
16. The conclusion of the meeting was that the Southern Area Council agreed, “*in light of the comments... made to this council today*” to forward all relevant documentation to the full board for consideration.
17. On 4 May 2020 the claimant wrote to the respondent’s solicitor with a letter titled “*pre-action protocol letter of claim- defamation*”. On 22 May 2020 the claimant issued defamation proceedings against the respondent in the County Court. The County Court proceedings were eventually struck out because they fell outside the jurisdiction of the County Court and the claim for defamation proceeded in the High Court. The defamation proceedings are born out of the dispute about what happened at the regulation 25 hearing on 5 June 2019.

18. The respondent obtained legal advice and following that the respondent's General Secretary wrote to the Administrative Stewards (Directors) of the Board outlining three potential options with regard to the Claimant. The three options were (1) Do nothing and wait to discuss at the next Board Meeting, possibly September; (2) Suspend the claimant's license pending a hearing at a date to be arranged; (3) Advise the claimant that he will not be appointed to tournaments due to the Court proceedings against the Board and the matter will be dealt with once confirmation of proceedings have been finalised.
19. The Stewards gave their various opinions and the decision was made to opt for option three. On 17 July 2020 the General Secretary wrote to the claimant in the following terms:

Dear Mr. Hinds,

*RE:- BRITISH BOXING BOARD OF CONTROL
REFEREES LICENCE*

With regard to the above, the Stewards of the British Boxing Board of Control have been advised that you are presently bringing legal action against the Board. In addition, you have made serious allegations against senior officials associated with the BBBofC which you have failed to raise under the BBBofC Rules and Regulations.

The Stewards are concerned that the impact of ongoing litigation against the organisation appointing you, might lead to your judgement and performances being affected. This could result in errors being made whilst refereeing, which would risk serious consequences for both boxers and yourself.

With this in mind, the Stewards have instructed me to advise you that you will not be appointed to any future tournaments whilst the litigation is ongoing. This decision has been made in the interests of Boxing generally and in your own best interests in particular.

20. There is a dispute between the parties as to the number of bouts that the claimant had refereed in the period between the 4 September 2019 and the 17 July 2020. The respondent states that it was 55 bouts the claimant states that it was in fact only 2 or 3 shows. The claimant and respondent are using different criteria to address the same point the claimant's evidence refers to "shows" which may incorporate a number of bouts and the respondent was referring to specific bouts.
21. There is no dispute between the parties that the claimant continued to

work as a referee in the period between 4 September 2019 and 17 July 2020.

22. The claimant objected to the decision on 17 July 2020.
23. A board meeting took place on 11 November 2020 at which the decision was again under consideration. The 17 July 2020 decision had been made by the Administrative Stewards, the matter was considered by the full board on 11 November 2020. The decision of the full board was that the decision of the Administrative Stewards will remain and the claimant would "*not be appointed to any future tournaments while the litigation is ongoing.*" In making the decision the Board explained that it was "*made in the best interests of boxing and in your own best interests.*" The claimant was informed that if he was dissatisfied with the decision he could file a complaint under regulation 24 of the BBBoFC's Rules and Regulations.
24. The claimant's proceedings against the respondent have come to a conclusion in the High Court however we understand that the proceedings continue as the claimant is making an appeal against the decision of the High Court.
25. On the 20 December 2021 the claimant presented his complaint of direct discrimination and victimisation to the employment tribunal.
26. A qualifications body must not discriminate against a person upon whom it has conferred a relevant qualification by withdrawing the qualification or by varying the terms on which the person holds the qualification or by subjecting the person to any other detriment.
27. A qualifications body discriminates against a person if because of his race they treat the person less favourably than they treat or would treat others. Race includes colour, nationality ethnic or national origins. Where the person seeks to compare his treatment with that of another person there must be no material difference between the circumstances relating to each case.
28. If there are facts from which the employment tribunal could decide, in the absence of any other explanation that the qualifying body contravened the provision concerned the employment tribunal must hold that the contravention occurred. However, this does not apply if the qualifying body shows that it did not contravene the provision.
29. A qualifications body must not victimise a person upon whom the qualifying body has conferred a relevant qualification (a) by withdrawing the qualification from the person; by varying the terms on which the person holds the qualification; or by subjecting the person to any other detriment.
30. A qualifying body victimises another person if the qualifying body subjects the person to a detriment because the person does a protected act, or the qualifying body believes that the person has done, or may do, a protected act. A protected act includes making an allegation (whether or not express)

- that the qualifying body or another person has contravened the Equality Act 2010.
31. Did the claimant do a protected act within the meaning of section 27(2) of the Equality Act 2010 when he made the statement on 4 September 2019?
32. In its closing submissions the respondent states the following at 9.2 “Although it is unclear whether the claimant made a protected act at the 4 September 2019 Southern Area Council Meeting, the respondent does not consider that it is proportionate or necessary to contest that for the purposes of defending the claimant claim. Accordingly, the respondent invites the Tribunal to proceed on the basis that the claimant did make a protected act within the meaning of s.27(2) EqA 2010 in the statement he read at the 4 September 2019 Southern Area Council meeting and the respondent will show that any such protected act was not a relevant cause of the decision challenged as detrimental treatment.”
33. Notwithstanding the respondent’s pragmatism we would in any event have found that the claimant did a protected act at the meeting on the 4 September 2019. The text of the statement read does not specifically refer to race discrimination or Equality Act 2010. To understand whether the text should be read as including a complaint under the Equality Act 2010 is in our view necessary to consider the entire statement in the context in which it was made and how it was received by those present. However, it is clear that the note taker at the meeting did consider that the claimant was making a complaint about race. We bear in mind that there is victimisation where the body victimising “believes” that the person has done, or may do, a protected act. In this case it is clear that whatever was specifically said or read by the claimant it was understood as including a complaint about race.
34. Was the decision of the 17 July 2020 and or did the confirmation of that decision on 11 November 2020 occur to any material extent because the claimant had done such a protected act?
35. The conclusion of the Tribunal is that it did not.
36. In arriving at our decision we have regard to the entire scope of the evidence presented to us by the parties. However, we do not consider that much of the background is probative in determining whether the decisions of the 17 July and 11 November were victimisation. The claimant now has a concern that he has been the subject of discrimination in the way that he has been treated by the Board. We note however that this case is not about whether the claimant should properly have been conferred A* status as a referee, that is a major issue of contention for the claimant with the BBBofC but not a matter for us.
37. The evidence in our view is very clear in respect of the allegation of victimisation. The claimant read his statement on 4 September 2019. Following the statement the claimant continued to be appointed to act as a referee in boxing bouts. There is a dispute between the parties as to the extent to which the claimant was appointed as a referee to bouts in the

period from 4 September 2019 to 17 July 2020 but there is no dispute that the claimant was so appointed.

38. The respondent acted against the claimant when the claimant brought the defamation proceedings against the BBBofC. This was what caused the reaction that led to the 17 July letter, reaffirmed on 11 November. The claimant himself had not made any complaint about discrimination in the intervening period in fact to the claimant made a point of stating to Mr Collier, one of the members of the Board and a member of the Southern Council, that "*I did not and I would not call you a racist*" and then went on to recognise that he had engaged with many Black and Ethnic Minority People in sport.
39. We also note that the letter of 17 July and the reconsideration of the decision on 11 November were conducted after legal advice had been obtained and emerged from a trio of options given to the Administrative Stewards and the full Board.
40. The Tribunal also note that the Board had in mind justifiable reasons for imposing the moratorium on the claimant acting as a boxing referee, namely the risk of the claimant being distracted by the fact that he is in dispute with the BBBofC and the impact this was having on his own state of health. The BBBofC were in our view entitled to have regard to these factors alongside the inherent dangers of the sport of boxing.
41. Was the decision of 17 July 2020 made, and or/ did the confirmation of that decision in November 2020 occur to any material extent because of the claimant's race?
42. We have reminded ourselves of the decision in Shamoon v Chief Constable of the Royal Ulster Constabulary [2003] ICR 337 and asked ourselves what was the reason for the treatment?
43. For the reasons already set out we consider that the reason for the treatment was because the claimant had brought the defamation proceedings. This is not in any sense to do with the claimant's race.

Employment Judge Gumbiti-Zimuto
Date: 28 August 2024

Sent to the parties on:
9 September 2024

For the Tribunals Office

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