Case Number: 6020077/2024

EMPLOYMENT TRIBUNALS

Claimant: **Mr T Chauhan**

Respondent: **Menzies Aviation (UK) Limited**

Heard at: **Reading Employment Tribunal** **On:** **7 July 2026**

Before: **Employment Judge Milner-Moore**

Representation
Claimant: Ms Brewis (Counsel)
Respondent: Mr Wilkinson (Counsel)

Interpreter Mr Aziz Unia – Gujarati Interpreter

JUDGMENT

1. At the relevant times, the claimant was not a disabled person as defined by section 6 Equality Act 2010 because of anxiety and depression

2. At the relevant times, the claimant was a disabled person as defined by section 6 Equality Act 2010 because of a physical back and leg impairment

Approved by:

Employment Judge Milner-Moore

7 July 2026

JUDGMENT SENT TO THE PARTIES ON
30 July 2026
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FOR THE TRIBUNAL OFFICE

Notes

Summary reasons were given orally at the hearing. Written summary reasons will not be provided unless requested by any party at the hearing, or by a written request received by the Tribunal within 14 days of the sending of the written record of the decision.

All judgments (apart from judgments under Rule 51) and any written full reasons for judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimant(s) and respondent(s).

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. 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:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/

The burden of proving disability lies with the claimant. C must satisfy the test in

i. Did the claimant have a physical or mental impairment?
ii. Did that impairment have an adverse effect on their ability to carry out normal day to day activities
iii. Was that effect substantial ? (i.e. was it more than minor or trivial?)
iv. Was that effect long term? (had it lasted more than 12 months, or was it likely to do so, or was it likely to be recur)

However, those matters need not necessarily be considered in the order set out above. In some case it will be preferable to focus on the questions of whether there is a substantial and long-term adverse effect on day-to-day activities on the basis that if such an effect is established this is likely to indicate the existence of an impairment (**J v DLA Piper UKEAT/0263/09)**

In considering normal day to day activities had regard to guidance at section D of the Guidance

It is not necessary to establish a formal medical diagnosis. The focus should be on the effect of the impairment rather than its cause and on what Claimant cannot do (or can only do with difficulty)

A substantial adverse effect is one that is "*more than minor or trivial*".

When considering whether something is "*likely*", the correct approach is to assess whether it *"could well happen"* (this is a lower hurdle than more likely than not).

Remind self of guidance in C4 of Guide and cMcDougall v Richmond that when assessing whether a condition is likely to be long term i.e. likely to last more than 12 months or likely to recur I must judge that by refence to the facts and circumstances at that time and not by reference to subsequent events. I am required to make a prophecy from those facts. It would be an error of law for me to have regard to what happened subsequently and look back with the benefit of that hindsight.

C4. In assessing the likelihood of an effect lasting for 12 months, account should be taken of the circumstances at the time the alleged discrimination took place. Anything which occurs after that time will not be relevant in assessing this likelihood. Account should also be taken of both the typical length

of such an effect on an individual, and any relevant factors specific to this individual (for example, general state of health or age).

Fact that substantial adverse effect has recurred episodically may suggest that future recurrence is something that "could well happen". However, it is not invariably the case – it si a matter for assessment by reference to the evidence.

Remind self of distinction discussed in DLA Piper and Herry between feelings of low mood and anxiety constituting a mental impairment and feelings which are better characterised as an adverse reaction to adverse life events.

Anxiety and Depression

ii. Did the claimant have a physical or mental impairment?

Did Ct have mental impairments of anxiety and depression at the relevant time i.e. 26 April to 1 July 2024?

Ct evidence today was worried from 26 April onwards about potential impact on employment of sickness absence. I accept that the claimant will have felt worried, particularly from mid June onwards when he was being referred to occupational health and being required to attend meetings to discuss absence. However, worry is not same as mental impairment or anxiety and depression. Do not consider that there is reliable evidence before me to show that claimant had a mental impairment before his dismissal on 1 July. Ct disability impact statement asserts this but Is not specific as to which effects were experienced when. It is also not consistent other evidence. Ct evidence was that after dismissal his wife had noticed a deterioration in his condition and persuaded him to see the GP in September 2024. Evidence from GP and other records, such as his interactions with talking therapy, suggest that the claimant's anxiety and depression were the result of his dismissal and not something that preceded it. Note what Ct said at 286 to talking therapy in September 2024 "you described experiencing feeling of low mood and worry within the last few months….linked to being dismissed unexpectedly from work in July"

iv. Did that impairment have an adverse effect on their ability to carry out normal day to day activities Was that effect substantial ? (i.e. was it more than minor or trivial?)

Accept that by August/September 24 claimant was significantly affected by depression and anxiety following on from his dismissal. From September 2024 onwards prescribed medication, saw talking therapies and advised on coping strategies, reported that he had low mood, avoided socialising, reluctant to leave house or engage in hobbies. Assessed as severely affected by depression and anxiety when seen in September 2024. Accept that at that time there was a substantial adverse affect on his ability to do day to day activities.

However, I do not consider that the substantial adverse effect was present before dismissal. There was accordingly no such substantial adverse effect during the relevant period

v. Was that effect long term? (had it lasted more than 12 months, or was it likely to do so, or was it likely to be recur)

I have concluded that, during relevant period, the claimant did not have an impairment having substantial adverse effects on his ability to carry out day to day activities. However, even if I am incorrect about that I do not consider that at the relevant time any such substantial adverse effects could be likely to be viewed as long term i.e. as likely to last more than 12 months or as likely to recur.

I recognise that the evidence shows that from September 2024 claimant has been significantly affected by depression such that he required talking therapies and medication and has experienced fluctuations in his mental health

However, it would be an error of law for me to look at claimant medical history subsequent to dismissal and to reason backwards from that history to conclude that he was likely to experience long terns substantial adverse effects of depression and anxiety. There was no evidence relating to the circumstances obtaining in April to July 2024 to establish that this was likely, even applying the lower hurdle of could well happen.

Back and leg condition

Have approached this by considering questions in a different order as per DLA Piper case

iii. Was there a condition having an adverse effect on C ability to carry out normal day to day activities during the relevant period.?

Find that claimant's ability to carry out normal day to day activities was substantially affected by leg and back pain in the period 26 April 2024 to 1 July 2024.

From 25 April 2024 unable to attend work. Ct says that during flare ups such as occurred in 2024 it is difficult to get out of bed or put shoes on or to walk more than short distances and that his sleep is disrupted. Consistent with medical evidence from this period. Reporting to GP and Physio chronic lower back and leg pain relating to sciatica. When seen by the physio in May 24 he was limping. He reported finding walking very difficult and experienced pain trying to rise from sitting and getting his socks on. He reported experiencing pain over night with disturbed sleep. He was prescribed cocodamol and set exercises to perform. The 3 June 2024 OH report records experiencing difficulties with walking, pushing, pulling and lifting and was not able at that time to provide a prognosis as to when Ct would be fit to return. However, later on during a 14 June phsyio appt his condition was improving and he described himself as 50% better. By 17 July 2024 that he was discharged from the physio service and 23 July that he was assessed as fit for work.

v. Was that effect substantial ? (i.e. was it more than minor or trivial?)

I find that the effect was substantial adverse effects described were more than minor or trivial during the relevant periods. Day to daty activities were significantly affected. Cy unable to do some things or could do them only with difficulty. Even with benefit of pain medication and exercises claimant experiencing impaired mobility and disrupted sleep and those effects would have been more pronounced if one were to disregard those measures

vi. Was that effect long term? (had it lasted more than 12 months, or was it likely to do so, or was it likely to be recur)

The substantial adverse effects described (unfitness for work, pain, stiffness, impaired mobility, sleep disturbance) were present during previous flare ups experienced by Claimant. First occurred between 2010 when signed off between March and November with chronic low back pain. Then a further episode between March 2016 and around June/July 2016 when claimant fell down some stairs and experienced a resurgence of lower back pain combined with shoulder pain and was again referred for physio taking pain medication and signed off work. The final episode was in 2024 when the claimant was adversely affected between 26 April and 17 July 2024. None of these episodes lasted more than 12 months.

Focus must therefore be on whether in relevant period April to July 2024 the substantial adverse effect was either likely to last more than 12 months or likely to recur.

Do not consider that in relevant period can be said that substantial adverse effect likely to last more than 12 months. Ct condition evidently improving with physio. During a physio appt 14 June the claimant described himself as 50% recovered and so expectation based on available evidence at time would be that he would recover within a month or so.

Did evidence at time establish that substantial adverse effect was likely to recur.?

Consider that it did. Did not accept claimant's evidence that he had experienced frequent flare ups nor did I place significant weight on GP letter recording frequent acute flare ups. That was not born out by contemporaneous medical evidence.

However, considered that the Ct had experienced three occasions when he had been substantially adversely affected by leg and back pain for a degree that he had been signed off work for months at a time and had need physio and painkillers to make a recovery. Accept that three occasions over a 14 year period would not necessarily in and of themselves give rise to a risk of recurrence. Also the case that on two previous occasions trigger appears to have been accidents at work and that report from

neurosurgery suggested that symptoms on that occasion likely to be muscular and not to require surgical intervention.

However, consider it significant that MRI studies disclosed Lumbar Spondylosis/ lumbar stenosis. That Physio records in 2024 make reference to disc bulges and changes to the spine that may occur as a result of aging and a manual job. The OH assessment was that there was a persistent underlying health condition.

Consider that evidence was that claimant experiencing substantial adverse effects from an underlying condition affecting his back and leg, that the condition was likely to be exacerbated by manual labour and to worsen with age. As such, applying the low bar of "could well happen" I consider that the circumstances at the relevant time were such that it could be said to be likely that the claimant's substantial adverse effects present in April to June 2024 could well recur in future.

vii. Did the claimant have a physical or mental impairment?

I consider the claimant did have a physical impairment at the relevant time/ of leg and back pain. It is not necessary to focus on the formal medical diagnosis. Don't consider three unrelated episodes. All episodes involved similar symptoms. The general thrust of majority of medical evidence is that the episodes are linked. 20i6 assessment is that claimant has chronic lumbar pain. 2014 physio references disc bulges. OH report recorded that the claimant had an underlying but undiagnosed condition causing leg and back pain during flare ups of that condition. Seems likely that this was connected to issues with his lumbar spine whether lumbar spondylosis /lumbar stenosis as recorded in MRI or disc bulges as recorded by the physio on 16 May 2024. In short conclude claimant did have physical impairment at relevant time.