



EMPLOYMENT TRIBUNALS

Claimant: Ms Jayshree Kotecha
Respondent: British Airways Plc

Heard at: Watford Employment Tribunal
On: 21,22 and 24 April 2026
Before: Employment Judge Alliott
Ms M Harris
Mr R Jewel

Representation

Claimant: In person
Respondent: Ms Helen Kendrick (solicitor)

JUDGMENT was sent to the parties on 3 June 2026 and full reasons were requested on 3 June 2026 in accordance with Rule 60 of the Employment Tribunal Procedure Rules. The following written full reasons are therefore provided:

FULL REASONS

Introduction

1. The claimant was employed by the respondent as a Customer Service Agent on 22 January 2007, latterly working at Terminal 5 Heathrow. She was dismissed with effect on 21 March 2023. By a claim form presented on 26 July 2023, following a period of early conciliation from 27 to 29 June 2023, the claimant brought a number of claims of which discrimination arising from disability and failure to make reasonable adjustments remain. The respondent defends the claims.

The issues

2. The issues were set out by Employment Judge Young in a case summary following a CMPH heard on 12 September 2024. They are as follows:-
 - “1.1 Were the discrimination complaints made within the time limit in section 123 of the Equality Act 2010? The Tribunal will decide:
 - 1.1.1 Was the claim made to the Tribunal within three months (plus early conciliation extension) of the act to which the complaint relates?

- 1.1.2 If not, was there conduct extending over a period?
- 1.1.3 If so, was the claim made to the Tribunal within three months (plus early conciliation extension) of the end of that period?
- 1.1.4 If not, were the claims made within a further period that the Tribunal thinks is just and equitable? The Tribunal will decide:
 - 1.1.4.1 Why were the complaints not made to the Tribunal in time?
 - 1.1.4.2 In any event, is it just and equitable in all the circumstances to extend time?

2. Discrimination arising from disability (Equality Act 2010 section 15)

- 2.1 Did the Respondent treat the Claimant unfavourably by:
 - 2.1.1 Not seeking reasonable alternative deployment within the Company.
 - 2.1.2 Preventing the Claimant from returning to work on 20 February 2023 and signing her off sick despite Nicola Harrington Gray not being qualified to do so.
 - 2.1.3 Blocking the Claimant from accessing the internal portal giving her access to travel, pension, emails.
 - 2.1.4 Failed to consider reasonable adjustments provided in medical notes/Occupational Health.
- 2.2 Did the following things arise in consequence of the Claimant's disability:
 - 2.2.1 The likely sickness absence of the Claimant ?
 - 2.2.2 The Claimant's sickness absence between 2020 and 20 March 2023?
- 2.3 Was the unfavourable treatment because of any of those things?
- 2.4 Was the treatment a proportionate means of achieving a legitimate aim? The Respondent says that its aims were:
 - 2.4.1 All staff working for the Respondent must sustain a substantial period of attendance to maintain sufficient staffing levels
- 2.5 The Tribunal will decide in particular:
 - 2.5.1 Was the treatment an appropriate and reasonably necessary way to achieve those aims;
 - 2.5.2 Could something less discriminatory have been done instead;
 - 2.5.3 How should the needs of the Claimant and the Respondent be balanced?
- 2.6 Did the Respondent know, or could it reasonably have been expected to know that the Claimant had the disability? From what date?

3. Reasonable Adjustments (Equality Act 2010 sections 20 & 21)

- 3.1 A "PCP" is a provision, criterion or practice. Did the Respondent have the following PCPs:
 - 3.1.1 Requiring the Claimant to work

- 3.1.2 Requiring the Claimant to work at a desk using the Respondent's standard desks, chairs and equipment in her job role.
- 3.1.3 Required the Claimant to work her contractual hours
- 3.1.4 Applied a higher criterion for fitness to work than a medical practitioner, such that when the Claimant was signed fit, she was not allowed to return.
- 3.2 Did the PCPs put the Claimant at a substantial disadvantage compared to someone without the Claimant's disability, in that:
 - 3.2.1 The Claimant was required to fulfil her contractual role.
 - 3.2.2 The Claimant was dismissed.
- 3.3 Did the Respondent know, or could it reasonably have been expected to know that the Claimant was likely to be placed at the disadvantage?
- 3.4 What steps could have been taken to avoid the disadvantage? The Claimant suggests:
 - 3.4.1 By working with the Claimant to identify another role within the organisation in which she could more comfortably work, including home working roles, in line with the restrictions described in medical information the Respondent had from the Claimant;
 - 3.4.2 Agreeing modifications to the workplace to provide the Claimant with more comfort, or modifications to the role to allow periods of physical respite in the working day for the Claimant;
 - 3.4.3 Agreeing alternative hours, or systems of agreeing hours (such as agreeing rotas a week in advance to account for the flaring of the Claimant's condition from time to time) or agreeing periods of light work.
 - 3.4.4 Allowing the Claimant's return to work on 20 February 2023
- 3.5 Was it reasonable for the Respondent to have to take those steps and when?
- 3.6 Did the Respondent fail to take those steps?

4. Remedy for discrimination

- 4.1 Should the Tribunal make a recommendation that the Respondent take steps to reduce any adverse effect on the Claimant? What should it recommend?
- 4.2 What financial losses has the discrimination caused the Claimant?
- 4.3 Has the Claimant taken reasonable steps to replace lost earnings, for example by looking for another job?
- 4.4 If not, for what period of loss should the Claimant be compensated?
- 4.5 What injury to feelings has the discrimination caused the Claimant and how much compensation should be awarded for that?
- 4.6 Has the discrimination caused the Claimant personal injury and how much compensation should be awarded for that?

- 4.7 Is there a chance that the Claimant's employment would have ended in any event? Should their compensation be reduced as a result?
 - 4.8 Did the ACAS Code of Practice on Disciplinary and Grievance Procedures apply?
 - 4.9 Did the Respondent or the Claimant unreasonably fail to comply with it by [specify breach]?
 - 4.10 If so, is it just and equitable to increase or decrease any award payable to the Claimant?
 - 4.11 By what proportion, up to 25%?
 - 4.12 Should interest be awarded? How much?
3. We observe that the substantial disadvantage set out in issue 3.2.1 does not really make sense. We note that, in its amended grounds of resistance, the respondent conceded a substantial disadvantage of:
- “Not being able to fulfil her contractual role;”
4. In the circumstances, we have treated the substantial disadvantage as being “Not being able to fulfil her contractual role.”
5. We note that, at the case management preliminary hearing where the list of issues was drawn up, the claimant was represented by counsel.

The law

6. Sections 15, 20 and 21 of the Equality Act provide as follows:–

“15 Discrimination arising from disability

- (1) A person (A) discriminates against a disabled person (B) if—
 - (a) A treats B unfavourably because of something arising in consequence of B's disability, and
 - (b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.
- (2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.”

“20 Duty to make adjustments

- (1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.

- (2) The duty comprises the following three requirements.
- (3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.
- (4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.
- (5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

“21 Failure to comply with duty

- (1) A failure to comply with the first, second or third requirement is a failure to comply with a duty to make reasonable adjustments.
- (2) A discriminates against a disabled person if A fails to comply with that duty in relation to that person.”

7. As per the IDS Law Handbook on disability at 3.17:-

“3.17

It is clear from S.20 that, in determining a reasonable adjustments claim, a tribunal must consider the nature and extent of the substantial disadvantage relied on by the claimant, make positive findings as to the state of the respondent's knowledge of the nature and extent of that disadvantage, and assess the reasonableness of the adjustment (i.e. 'step') that it is asserted could and should have been taken in that context. We consider these key components of the statutory duty separately below (see “Substantial disadvantage”, Employer's knowledge of disability and Reasonableness of adjustments). Nevertheless, as Lord Justice Laws observed in *Newham Sixth Form College v Sanders 2004 EWCA Civ 734, CA*, in practice, these three aspects of the duty necessarily run together. An employer cannot make an objective assessment of the reasonableness of proposed adjustments/steps unless it appreciates the nature and extent of the substantial disadvantage imposed on the employee by the PCP, physical feature or lack of access to an auxiliary aid, and an adjustment to a work practice can only be categorised as reasonable or unreasonable in the light of a clear understanding as to the nature and extent of the disadvantage — *Lamb v Business Academy Bexley EAT 0226/15*.

A failure to comply with any of the requirements in S.20 amounts to a failure to comply with the duty to make reasonable adjustments, and an employer will have discriminated against a disabled person if it fails to comply with the duty in relation to that person — S.21(1) and (2).”

The evidence

8. We had a hearing bundle of 329 pages. The claimant also produced two Med 3 fit notes for February/March 2023 and some screen shots of text exchanges with Nicola Harrington-Gray on 14 and 15 March 2023.
9. We had witness statements and heard evidence from:
 - 8.1 The claimant.
 - 8.2 Ms Nicola Harrington-Gray, Standards and Policy Partner.
10. Ms Kendrick provided written closing submissions for which we are grateful.

The facts

11. The claimant was employed by the respondent as a Customer Service Agent on 22 January 2007. By 2021 she was working at Terminal 5 Heathrow.
12. The respondent has an Absence Management Policy (August 2019). Section 4 deals with:

“Managing attendance which exceeds 21 consecutive days, or absence which affects an employee’s ability to work for medical reasons.”

13. This provides:-

“4.1 Managing longer term absence

Where an employee is unable to do their job to the standard reasonably required by British Airways due to the employee’s medical incapacity, British Airways will follow the Medical Incapacity procedures in section 4 of this policy.

If a line manager believes on reasonable grounds that:

...

- The employee’s absence or their inability to do their job to the standard reasonably required by British Airways is due to medical incapacity that is likely to be long term, the line manager will seek Occupational Health advice from BAHS [British Airways Health Services]. The line manager will ask BAHS to give an informed opinion on the employee’s ability to do their job, or a suitable alternative job to the standard reasonably required by British Airways in the foreseeable future.

The BAHS advice may include restrictions and recommendations on reasonable changes to the employee’s job or working environment. If BAHS advises that the employee will not be able to do their job to the standard reasonably required by British Airways in the foreseeable future due to medical incapacity the advice may include whether the employee would be able to do a suitable alternative job.”

And

“4.6 Suitable alternative employment

If reasonable adjustments cannot be made to the employee’s working environment,

and the employee is capable of undertaking suitable alternative employment, the line manager will discuss with, and assist the employee to identify and apply for, suitable alternative employment. In doing so, the line manager should refer the employee to the Career Transition Service and support the employee during the Career Transition process.”

14. We were told by Nicola Harrington-Gray that after the covid lockdown the Career Transition process was ended. However, vacancies could be accessed on “Jobscan” (an internal job search portal).
15. Unfortunately, the claimant’s witness statement is very general in its terms and has not really set out what her evidence on the facts is. In addition, parts of the claimant’s witness statement refer to a grievance that she lodged in 2016. On other occasions in her evidence the claimant referred back to events in 2014.
16. In 2017, the claimant moved to working part-time 18.75 hours per week (although in her ET1 form she states 27 hours per week). The claimant worked a rota of three days on and six days off.
17. As a Customer Service Agent, the claimant was expected to work with flexibility dealing with a number of tasks. In effect, the claimant was dealing with passengers from the moment they arrived at the terminal to boarding a plane. Her work involved her in tasks both landside and airside. Examples of her roles included:
 - 16.1 Working in a customer interfacing role landside, such as queue hosting;
 - 16.2 Working on the check-in desks;
 - 16.3 Working in lounges, such as checking customers’ boarding passes when they approached;
 - 16.4 Checking in customers’ luggage;
 - 16.5 Checking passports;
 - 16.6 Going gate to gate airside for boarding.
18. Obviously enough, the claimant was required to work and was required to work her contractual hours. As such, we find the PCPs set out in issues 3.1.1 and 3.1.3 are proved.
19. Further, when working at the check in desk, the claimant was expected to work using the respondent’s standard desk, chair, and computer equipment. As such, we find the PCP alleged in issue 3.1.2 is proved.
20. At all material times, the claimant was disabled within the meaning of the Equality Act 2010 by reason of arthritis and fibromyalgia. The respondent accepts that it knew that the claimant was disabled at all material times.

The claimant’s absence from work from 11 August 2021

21. Although the claimant referred to a grievance in 2016 and other events prior to this, this case does not involve events prior to 11 August 2021. The claimant provided three Med 3 fit notes covering the period 11 August 2021 – 11 April 2022 signing her off as not fit for work because of the condition “seronegative arthritis.”
22. On 1 September 2021, Nicola Harrington-Gray wrote to the claimant enclosing a copy of the Absence Management Policy. The claimant was told that, as her absence had now exceeded 21 consecutive days, so she would be dealt with under section 4 of the Policy. The letter includes the following:-

“In accordance with the Policy, I may contact you periodically to check on your progress. Additionally, I may also arrange a referral to British Airways Health Services (BAHS) to seek advice on your return to work and how we can most appropriately support you.”

23. The letter also contains the following:-

“I appreciate that during this time you may wish to seek further information and support. For further support, Helpdirect is a completely confidential, 24-hours personal support service available to all BA employees, which you can call for information.”

24. The claimant was referred to BAHS. Although we do not have the report, an extract of the report dated 16 September 2021 is quoted in a letter dated 26 October 2021 from Nicola Harrington-Gray to the claimant. The quote is as follows:-

“Dear Nicola,

Thank you for referring Jayshree Kotecha to BAHS.

I had a telephone consultation with her on the 16 Sep 2021. We discussed the issues outlined in the referral regarding her current underlying symptoms, its impact on her work capability and her ability to return to her contractual duties. Jayshree is still experiencing symptoms that are impacting her health and affecting her ability to return to work at this time. She is under the care of her specialist and she is receiving appropriate support. Jayshree informs me that she is currently signed off work for 3 months, but I will review her fitness in 06 weeks and update you accordingly via ESS. In the meantime, Jayshree remains unfit for work.

I have discussed the contents of this report with Jayshree and have obtained consent to release it to you. I have also sent her a copy.

Should you need further assistance please do not hesitate to contact me.”

25. We were told that the BAHS Occupational Health adviser was Jacqui Quamina. We were told that as part of her training she would have visited Terminal 5 to assess all roles undertaken by BA staff there.
26. On 5 October 2021, Nicola Harrington-Gray wrote to the claimant to arrange a section 4 meeting. The letter contains the following:-

“Whilst it is recognised that colleagues may occasionally be absent from work due to sickness or injury, the aim of the EG300 Absence Management policy is to encourage

regular attendance at work, minimise absence levels and provide you with appropriate levels of support.

The meeting will give you the opportunity to tell me about your absence and we will be able to discuss the following:

- Returning to your contractual role
- Any reasonable adjustments that may be accommodated to your contractual role
- Suitable alternative employment

We will continue to support you back to work and the purpose of section 4 is to help manage this. However, there may be occasions when this is not possible, and I may need to consider the other options available to me under the Policy, one of which may ultimately be termination of your contract under EG300 section 4. I will explain this further at the meeting.”

27. The claimant met Nicola Harrington-Gray on 22 October 2021. The matters covered during the meeting are contained in the letter dated 26 October 2021. The claimant’s treatment and her adverse reaction to it were discussed. There was a proposal from her specialist to try injections. The following is recorded:-

“Your rheumatology condition appears slightly better, the swellings are still in your wrist, hand, knee and under your foot but so much better than before.”

28. The extract from the BAHS report was cited and the claimant is recorded as saying that she agreed with the report. It was agreed that the claimant would be referred to BAHS again in four weeks and a further meeting would take place.

29. The claimant was referred to BAHS again on 29 November 2021 and Nicola Harrington-Gray received the report on 13 December 2021. The reason for the referral is recorded as:-

“Is Jayshree fit to rtw [return to work] into contractual role on 10-12-21.”

30. The report answers the question “What support/adjustments will be required?” “Yes.” The recommendation states:-

“We discussed the issues outlined in the referral regarding her current sickness absence, its impact on her work capability and her fitness to return to her contractual duties. Jayshree has reached a level of fitness to return to her contractual duties on 12-Dec-2021. To support her return to work I recommend 2 blocks at 6 hours per day then full hours thereafter. With reference to the Equality Act 2010, presently I consider Jayshree is likely to be protected by the disability discrimination provisions of the Equality Act 2010 for the condition related to her current sickness absence. Her symptoms are longstanding and regarding long term management.”

31. Notwithstanding the contents of the report, the claimant obtained a Med 3 fit note signing her as unfit for work from 11 December 2021 until 11 April 2022.

32. On 4 January 2022, the claimant had a second section 4 review meeting with Nicola Harrington-Gray. The matters discussed are contained in an outcome

letter dated 6 January 2022. The claimant's ongoing medical conditions and treatment were discussed. The following is contained in the letter:-

“You told me that you were unfit to return to work, that your mobility is not good due to inflammation in your wrists, under your feet, neck and your shoulders and you said you were not in a good way. You told me that you really want to return to work but you are tired both physically and mentally. You find that going for a blood test is a big deal. Furthermore, you are due to have cataract surgery on 12 January at Moorfields Hospital, this is due to the steroids affecting your eyes.

Suitable alternative employment

We discussed you returning to work in an alternative role, maybe an office role, you told me that currently you could not return to work as you are getting used to new medication, you feel you have too much going on with the side effects and you are not eating very well.

How your medical circumstances have impacted on your return to work

Therefore, I explain that, as you are unfortunately unable to return to work in your contractual role as Customer Experience Representative due to your medical circumstances in the foreseeable future, it is with regret, that I will be terminating your contract of employment with British Airways on 29th March 2022, considering your contractual notice period.

We discussed seeking alternative employment within these timescales and we agreed that we have explored all other possibilities to help and support you, including the consideration of making reasonable adjustments to your current role, or any alternative role.”

33. In her witness statement Nicola Harrington-Gray states:-

“Jayshree confirmed that she could not return to work in any capacity.”

34. On 9 February 2022, Nicola Harrington-Gray referred the claimant again to BAHS and a report was received on 15 February 2022. The reason for the referral was:-

“Review for rtw into contractual role in the short/long term.”

35. The recommendation was:-

“She will return when she feels ready. No further review from BAHS for this absence. Past absences are good indicators of future attendances.”

36. On 10 March 2022, Nicola Harrington-Gray referred the claimant once again to BAHS. A report was received on 24 March 2022. The reason for the referral was:-

“Can you please advise is Jayshree fit to rtw onto full contractual role? Is any support, adjustments required to assist a rtw?”

37. The recommendations are:-

“Jayshree informs me that she has reached a level of fitness to return to work on 28-Mar-2022. To support her return to work I recommend these adjustments. Plan Fit for

restricted duties on 28-Mar-2022. 2 blocks at 6 hours per day then full duties thereafter.”

38. The reference to 2 blocks at 6 hours per day was a phased return to work with the claimant working for six hours per day for each of the first two, three day blocks.
39. Nicola Harrington-Gray met the claimant on 24 March 2022 and a summary of the meeting is contained in a section 4 review letter dated 30 March 2022. The claimant outlined her latest health issues with her eye and hand. The claimant nevertheless agreed with the report and the claimant informed Nicola Harrington-Gray that she was going to return to work on 28 March 2022. It was agreed that she would be supported with two blocks of six hours and a familiarisation training pathway. As the claimant was saying she was going to return to work, the termination date was extended by 12 weeks to 21 June 2022 in order to enable the claimant to return to work and show that she was able to sustain an acceptable level of attendance.
40. The claimant actually returned to work on 2 April 2022. Thereafter she was absent on 11 April 2022 (one day – we were not given the reason) . The claimant was absent on 1 May 2022 for an eye operation.
41. On 18 May 2022, the claimant was absent from work again due to sickness. The duty of care proforma sets out:-

“Jayshree has a form of arthritis which is very painful. She is doing biochemical treating which is for 12-14 weeks and medication is put directly into her blood stream. The treatment makes her very drained. She is in contact with NHG [Nicola Harrington-Gray] for support.”

42. On 19 June 2022, Nicola Harrington-Gray wrote to the claimant stating as follows:-

“In order to make an informed decision in respect of your future ability to fulfil your contractual role and the reviewing of your existing termination date I would prefer to have an up to date report from British Airways Health Services.”

43. The claimant's termination date was extended by three weeks to 12 July 2022 in order to enable the claimant to attend a consultation with BAHS.
44. The claimant was referred to BAHS on 19 June 2022 and a report was provided on 24 June 2022. The recommendations were as follows:-

“We discussed the issues outlined in the referral regarding timescales and support returning and sustaining attendance at work. Jayshree has a longstanding underlying medical condition that is managed by her specialist and medication. As outlined in the referral this condition has impacted her ability to sustain reasonable attendances at work. Therefore, I am unable to comment on whether Jayshree's return to work will allow sustainable attendances. Jayshree has been assessed for a new treatment and she is hoping that her new treatment will be effective and in turn improve her attendances. Jayshree informs me that [the] recent absences are a direct result of her underlying medical conditions and recent complications following eye surgeries. She has reached a level of fitness to return to her contractual duties on 01 Jul 2022. To support her return

to work, I recommend 2 blocks at 6 hours per day then full hours thereafter.

45. Notwithstanding the recommendation that the claimant return to work, on 1 July 2022 the claimant obtained a Med 3 fit note which signed her as not for work from 16 June until 3 October 2022 because of seronegative arthritis. The fit note states in the comments section:-

“Due to start biologics at home.

Joints very tender and swollen.

And prone to infection due to the immune suppressant.”

46. The claimant was unable to attend a further section 4 review meeting on 7 July as she was having to isolate. Accordingly, on 9 July 2022, Nicola Harrington-Gray wrote to the claimant requesting a further report from BAHS and extending the termination date by three weeks to 2 August 2022.

47. A further report from BAHS was received on 12 July 2022. The recommendations were as follows:-

“I am unable to provide any further advice at this stage. No further BAHS input can be provided that has not been previously considered. Therefore it is now a management decision how you wish to proceed.”

48. A further section 4 review meeting was held on 21 July 2022. The meeting is summarised in a section 4 review follow-up letter dated 22 July 2022. The claimant was reporting that she was feeling much better. The claimant described her ongoing treatment and the following is recorded:-

“We discussed you being fit for suitable alternative employment in the company, you said you felt you may be able to work in an office and that you have been thinking about it that morning as you were concerned whether you would be able to label bags with your swollen hand, you said as the injections take effect then the swelling will reduce in your hand.

You said you had previously applied for a role in the Airport Resolution Centre but were unsuccessful in obtaining, I asked if you received feedback on your application and you told me that they were not offering feedback. You said you would look at Jobscan to see if there were any suitable roles. You said you love your role and that you are keen to return to work as you need to work to support yourself.

I explained that I was concerned that your sickness was at 84% and that this is not something the company can sustain.”

49. In order to allow the claimant to be reviewed by her doctor having had further injections, the claimant's termination date was extended to 30 August 2022.

50. The Airport Resolution Centre role that the claimant had applied for but was unsuccessful in obtaining related to ticketing and would have represented a promotion as it was two grades above the claimant's grade.

51. The claimant had a further section 4 review meeting with Nicola Harrington-Gray

on 15 August 2022. The meeting was summarised in a section 4 review outcome letter dated 20 August 2022. The claimant's specialist review that had been due on 4 August 2022 was cancelled and rearranged for 25 August 2022. The following is recorded:-

“Suitable alternative employment

We discussed you being fit for suitable alternative employment in the company, you told me that you have been on CareerLink previously and that you had applied for a ticket desk role but were not successful. You said you had been looking at Jobscan but found the positions available were for managers which you felt was not for you. You had considered Cabin Crew Scheduling, but decided that you were a people person, you love your current position and you want to return and give it your best shot.”

52. Once again, Nicola Harrington-Gray indicated that she wanted a further referral to BAHS and the termination date was extended to 13 September 2022.
53. In her closing submissions the claimant suggested for the first time that she applied for a role in Cabin Crew Scheduling. However, we find that she has not proved that she did.
54. The claimant was referred to BAHS on 18 August 2022 and a report was received on 23 August 2022. The reason for the referral was:-

“Is Jayshree fit to rtw into her contractual role? If no is Jayshree fit for suitable alternative employment? Can you advise what a rtw is likely?”

55. The recommendations were:-

“We discussed the issues outlined in the referral regarding advice, support and timescales returning to work following her current sickness absence. Jayshree informs me that she is currently on a new treatment which is helping her symptoms. She has reached a level of fitness to return to her contractual duties on 02 Sep 2022. To support her return to work I recommend 2 blocks at 6 hours per day then full hours thereafter.”

56. The claimant returned to work on 2 September 2022.
57. The claimant went off sick between 12 and 20 September 2022. The reason was a suspected viral infection. However, we find that that was something arising in consequence of the claimant's disabilities due to her immunosuppressed state.
58. On 23 September 2022, the claimant had a further section 4 review meeting with Nicola Harrington-Gray. The claimant had returned to work supported with the two blocks of reduced hours. The claimant is recorded as saying that she was better and enjoying being back at work. The claimant's termination date was extended from 4 October to 27 December 2022 in order to enable the claimant to show that she was able to sustain an acceptable level of attendance at work.
59. The claimant had a further section 4 review meeting with Nicola Harrington-Gray on 1 December 2022 in order to review her progress. The meeting is summarised in the section 4 review outcome letter dated 5 December 2022. The following is recorded:-

“I asked how you had been and you told me you were ok, you continue with problems in your hand for which you may need to have either injections into the hand or surgery.

You said you continue having problems with your shoulder and are being referred for physiotherapy.

I asked how you feel you were doing at work and you told me you have anxiety, you have been working in First Class and felt claustrophobic so asked to move zones and you were moved to H and G. You have pain in your shoulder, hand and legs and continue with your biological medication and home exercises. You told me you feel you are doing the best you can at work and that you just get on with it.”

60. The letter goes on to state that Nicola Harrington-Gray had concerns about the claimant's ability to sustain an acceptable level of attendance and the termination date was extended by three months from 27 December until 21 March 2023 in order to enable the claimant to show that she could sustain an acceptable level of attendance at work.

61. The claimant went off sick on 6 December until 23 December 2022 due to a respiratory tract infection. The claimant had a further period of absence from 5 January until 15 January 2023 with the reason being a respiratory tract infection. We find that those absences arose in consequence of her disabilities due to her immunosuppressed status.

62. Although there appears to be a gap between 23 December 2022 and 5 January 2023 we have a letter dated 3 January 2023 referencing the claimant remaining unwell and not being able to return to work and the absence record sheets indicate that the claimant remained unfit between 23 December 2022 and 5 January 2023.

63. The claimant was referred to BAHS again on 9 January 2023 and a report was received on 12 January 2023. The following is recorded:-

“Detail: Jayshree has been away from work since 10 December 2022. Jayshree tells me that she has had a bad chest infection and had three courses of antibiotics – the GP advises that the biological medicine has reduced her immune system.”

64. The recommendation was as follows:-

“We discussed the issues outlined in the referral regarding timescales and advice returning to her contractual duties following her current sickness absence. Jayshree informs me that she is recovering as expected and she has reached a level of fitness to return to her contractual duties on 16 Jan 2023. To support her return to work I recommend 1 block at 6 hours per day then full duties thereafter... Extra walking time between gates.”

65. Notwithstanding the recommendation that the claimant was fit for restricted duties on 16 January 2023, the claimant obtained a Med 3 fit note on 16 January 2023 which signed her off as not fit for work for one month due to seronegative arthritis.

66. Once again, the claimant was referred to BAHS by Nicola Harrington-Gray on 22 February 2023 and a report was received on 6 March 2023.

67. The claimant told us that she was preparing to return to work on the expiry of her fit note on 16 February 2023. The first date that the claimant was rostered to work after that was 20 February 2023. Accordingly, the claimant told us that she rang Nicola Harrington-Gray on 19 February 2023. The claimant was told that she should not return to work as Nicola Harrington-Gray wanted to refer her to BAHS in order to assess her fitness to return to work and any support measures that may be required. We find that that was in accordance with the respondent's Absence Management Policy.
68. Issue 2.1.2 is: "Preventing the claimant from returning to work on 20 February 2023 and signing her off sick despite Nicola Harrington-Gray not being qualified to do so."
69. Issue 3.1.4 is: "Applied a higher criterion for fitness to work than a medical practitioner, such that when the claimant was signed fit, she was not allowed to return."
70. The claimant was not signed fit. It was just her then Med 3 fit note expiring.
71. As it happens, following the conversation with Nicola Harrington-Gray on 19 February, the claimant obtained a Med 3 fit note signing her as unfit for work due to seronegative arthritis from 16 February until 2 March 2023.
72. Whilst "preventing" may not be the most appropriate word, we find that the claimant was instructed not to return to work on 20 February 2023 pending an assessment by BAHS. We find that Nicola Harrington-Gray did not sign the claimant off sick and that, in actual fact, she was subsequently signed off sick by her GP. Consequently, we find that issue 2.1.2 is not proved. In any event, we find that that was not unfavourable treatment. It was proper long term sickness management.
73. We find that the respondent did not apply a higher criterion for fitness to work than a medical practitioner. We find that the respondent adopted sound management practice in requiring the claimant to be assessed by BAHS prior to her return to work. Consequently, we find that the PCP alleged in issue 3.1.4 is not proved.
74. The claimant was referred again to BAHS on 22 February 2023 and a report was received on 6 March 2023. The details are recorded as follows:-

"Jayshree has been away from work since 10-12-2022 due to seronegative arthritis. Jayshree tells me that the specialist has stopped her injection treatment plan, she is being put forward for funding for alternative treatment and until that time she has been prescribed steroids. Jayshree's sickness is currently 66% of available working hours, in Sept 22 was 84% of available working hours."

75. The recommendations record:-

"Jayshree informs me that she does not feel well enough to return to her contractual duties currently and she is hoping to return when she is in receipt of new treatment. Unfortunately, she has no timescales when her treatment is likely to start. Therefore, I am unable to provide you with definitive timescales for her return to work. With

reference to your question regarding her ability to sustain attendance at work. I am unable to offer any guidance to this question as past absences are good indicators of future attendances. Therefore, no further BAHS input can be provided that has not been previously considered.”

76. The claimant had a section 4 meeting with Nicola Harrington-Gray on 15 March 2023. The meeting is summarised in a review section 4 outcome letter dated 20 March 2023. The following is recorded:-

“At the meeting on 15 March 2023 you told me that you were still not 100% but you felt you were “getting there”. You said the specialist has decided to change your medication as the inflammation is not going down and they are keeping an eye on your bone density. You said that a new biological drug, which is an immune suppressed medication, requires funding approval.”

77. They discussed the effects of the new medication on the claimant’s immune system and side effects. The extract from the BAHS report stating that the claimant said she did not feel well enough to return was put to the claimant and the following is recorded:-

“I asked if you agreed with that statement, you told me that you did and that Jacqui could tell that you were unwell when you met with her as your mobility was not good. You said you want to get well and get on with your life, but you have so many questions regarding the new medication. You said once you start to take the new medication it would take 2-3 weeks to take effect. There is the additional, as yet unknown, timescale of how long it will take for your local health trust to approve the funding for the new drug.”

78. Thereafter the claimant’s sickness absence was reviewed and Nicola Harrington-Gray concluded:-

“Bearing in mind your attendance history over the past five years, which I have summarised above, including the support you have been given in terms of extending the termination date on eight occasions (over 12 months), I have no confidence that you will be able to return to your contractual role, sustain your duties in the short term and maintain this to a level which is acceptable to the business in the longer term.

Therefore, I confirm to you that the date on which your contract would terminate is 21 March 2023.”

79. The text messages produced by the claimant were between the meeting on 15 March and the outcome letter being sent on 20 March 2023. The claimant raised unpaid leave and made a plea to keep her job. They were to no effect.

80. The claimant appealed her dismissal on 23 March 2023. As part of the appeal the claimant referenced reasonable adjustments She states the following:

“I am awaiting funding for new treatment and am hoping to get this within six months, In the meantime, I would have requested the following reasonable adjustments-

- Restricted length of standing to one hour with seated positions in between.
- Extra time to get to positions especially if working airside doing gate work with some seated positions allocated ie customer service desks and lounges; and

- Footwear to support my feet and joints.

These adjustments to my working day will help with my joint pain and fatigue and enable me to work and fully complete my role. I would hope that once I start my new treatment and it is given a chance to work, I would be able to reduce or even remove these restrictions following a review.”

81. We note that the following is also in her appeal:-

“Unfortunately, I did not take up my right to have union representation and support throughout the time I have been on section 4 and if I had, I would have pushed for reasonable adjustments to enable me to work without pain and triggering sicknesses, earlier. I did not have a union rep as I believed I was being supported by the Absence Manager, Nicola herself and BAHS to return to work. I truly believed I was receiving all the help I was entitled to, but I have now researched myself and received advice, which makes me realise this is not the case.”

82. Also on 23 March 2023, the claimant complained as follows:-

“In Nicola’s outcome letter it says that all the information is on the ONE page – but I can no longer sign in and access the BA intranet including ONE page... can someone please advise me.”

83. The evidence from Nicola Harrington-Gray was that following termination of employment all employees were blocked from the BA intranet. The claimant did not complain about this but stated that she had been blocked prior to her dismissal. Nicola Harrington-Gray responded that this could not have been done as, if it had been done, then the claimant would not have been paid.
84. The appeal was heard on 21 April 2023 by Renata Caruso Lorenzo, Area Performance Manager. The appeal was unsuccessful. We did not hear evidence from Renata Lorenzo and so only have the outcome letter dated 19 June 2023. She concluded that a variety of adjustments had been considered and put in place where appropriate in the short term to help the claimant back to work and that at the time the claimant left BA, BA did not have any defined date when she would be medically well enough to enable a sustained return to working.

Conclusions

85. We find that all the claimant’s sickness absence from 11 August 2021 until 21 March 2023 was something arising in consequence of the claimant’s disability. Consequently, we find the things set out in issues 2.2.1 and 2.2.2 did arise in consequence of the claimant’s disability and are proved.
86. Issue 2.1.1 is: “Not seeking reasonable alternative deployment within the company.”
87. It is clear to us and we find that during many of the section 4 review meetings and the prospect of an alternative role was discussed with the claimant. Further, the option for an alternative role was always set out in the various section 4 review outcome letters. In addition, the claimant was referred to BAHS on nine occasions with the referral specifically referencing whether the claimant was fit for suitable alternative employment.

88. The claimant did apply for Airport Resolution Centre (ticketing) but was unsuccessful. However, that role would have been a promotion and was two grades above the claimant's grade. As such, we find that not placing her in that vacancy was not a failure to consider reasonable alternative deployment as, in our judgment, the respondent was entitled to assess her suitability for the role. We find that the claimant has not proved that there was a vacancy in Crew Scheduling or that the claimant had applied for it. The claimant had full access to Jobscan which would allow her to be aware of and apply for any vacancies that she thought would be suitable. The claimant confirmed in evidence that there were no vacancies available that were suitable for her.
89. Whilst reasonable alternative deployment was discussed with the claimant on numerous occasions, we find that the respondent did not itself actively seek reasonable alternative deployment. Consequently, we find the treatment alleged in issue 2.1.1 is proved.
90. We find that that treatment was not unfavourable treatment. The claimant was able to access and view available vacancies and confirmed there were none. The claimant's preference was to return to her own job and this was communicated to Nicola Harrington-Gray on a number of occasions. This is not an allegation that the respondent failed to treat her more favourably by placing her in a suitable vacancy without having to be in competition with others. As it was, there were no suitable vacancies. In any event, we find the treatment was not because of the claimant's sickness absence. It was because the claimant had access to and could and did apply for any suitable vacancies. Further, the respondent was aware that the claimant was looking.
91. Issue 2.1.2 is: "Preventing the Claimant from returning to work on 20 February 2023 and signing her off sick despite Nicola Harrington Gray not being qualified to do so." We have found this not proved.
92. Issue 2.1.3 is: "Blocking the Claimant from accessing the internal portal giving her access to travel, pension, emails."
93. We have found that the claimant was blocked from accessing the internal portal after her dismissal. The claimant has not complained about that as it was standard practice.
94. The claimant's claim was that she was blocked prior to dismissal. We find that the claimant has failed to prove that this was the case. We find that it was probable that she retained access to the internal portal as she continued to be paid. Accordingly, issue 2.1.3 is not proved.
95. Issue 2.1.4 is: "Failed to consider reasonable adjustments provided in medical notes/Occupational Health."
96. We find this alleged treatment is not proved. The reasonable adjustments recommended in the BAHS reports, namely a phased return to work with training/support was provided. We have no evidence that allowing her longer time to go from gate to gate was not instigated. We find that there are no other reasonable adjustments recommended that were not implemented.

97. Consequently, the discrimination arising from disability claims are dismissed.
98. We have found the PCPs 3.1.1, 3.1.2 and 3.1.3 are proved. Alleged PCP 3.1.4 we have found not proved.
99. We have gone on to consider whether those PCPs put the claimant at a substantial disadvantage compared to someone without the claimant's disability. We have treated the alleged substantial disadvantages as:-
- “3.2.1 (as amended) “Not being able to fulfill her contractual role.
- 3.2.2 “The claimant was dismissed.”
100. We find that the PCPs did not put the claimant at the substantial disadvantage set out in issues 3.2.1 and 3.2.2. The claimant was dismissed due to her sickness absence. Her sickness absence was because of her ill-health and infections arising from her immunosuppressed state. We find that the sickness absence did not arise as a consequence of problems related to the PCPs. We note that, from 2 September 2022 when the claimant did return to work, until 6 December 2022 when she went off sick for the final time, there is not a single contemporary reference to the claimant complaining that she was unable or restricted in her ability to do her job or that she needed reasonable adjustments. The cause of the claimant going off sick on 6 December 2023 was a respiratory tract infection not problems with fulfilling her contractual role.
101. Due to our findings, we do not deal with the time issues.
102. Consequently, the claimant's reasonable adjustment claims fail.
103. For the above reasons, the claimant's claim is dismissed.

Approved by:

Employment Judge Alliott

24 August 2026

SENT TO THE PARTIES ON
25 August 2026

FOR THE TRIBUNAL OFFICE

Notes

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

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/