

IN THE EMPLOYMENT TRIBUNAL

Claim No. 36 of 2019

BETWEEN

ANNABELLE DESOIZA

Claimant

-and-

H.M. GOVERNMENT OF GIBRALTAR

Respondent

The Claimant in person

Mark Isola, Esq. KC with Nick Isola, Esq. for the Respondent

RULING

1. In these proceedings, begun by Claim Form issued on the 31st July 2019, the Claimant (apart from failing to complete the Form in its entirety) stated that her claim was “one of Bullying and Victimisation under the Bullying Act 2014” and went on to particularise her claim under sections 4 and 7 of the Employment (Bullying at Work) Act 2014.
2. The Respondent duly filed and delivered its Response on the 23rd August 2019 and on the 11th September 2019 the Claimant purported to serve and deliver a Reply to Response in which she expanded her original claim to include “a Contractual Claim”.
3. At a Case Management Conference on the 10th May 2022, Mr. Kenneth Navas, the then Chairperson, adjourned the matter for a further Case Management Conference and gave the Claimant leave to make an application for permission to amend her Claim Form and to lodge her bundle of documents in support of her application by the 7th June 2022.
4. By the 22nd May 2023, Mr. Navas had recused himself as Chairperson of the Tribunal in respect of this matter and I had been appointed to Chair the Tribunal for the purpose of these proceedings and at a hearing on that date I gave the Claimant leave to file with the Tribunal and serve on the Respondent an application to amend the Claim Form together with appropriate directions as to how the proposed amendments to the Claim Form should be highlighted.
5. On the 30th May 2023 the Claimant duly submitted her application to amend her Claim Form and her application was heard by the Tribunal on the 13th July 2023.

6. I am conscious of my obligation under rule 52(1) of the Employment (Constitution and Procedure) Rules 2016 to have delivered my decision on the Claimant's application within 3 months of the date of the hearing and I very much regret my failure to do so by the 31st July 2024 notwithstanding my assurance to that effect.
7. I now do so in compliance with the Order of Happold J. dated the 23rd September 2024 in the proceedings for Judicial Review embarked upon by the Claimant (Neutral Citation Number 2024/GSC/023).
8. I have read the Claim Form highlighting the Claimant's proposed amendments in manner directed by the Tribunal on the 22nd May, her submissions in support and the authorities cited by her. I have also had due regard to the Respondent's very extensive and persuasive submissions.
9. I prefer to base my decision on whether to grant the Claimant permission to amend her Claim Form on Ladbrokes Racing Limited v. Traynor UK EAT/0067/06 which suggests the matters which the Tribunal should consider when dealing with an application of this nature:
 - (a) Why the application is made at the stage it was made and why it was not made earlier. I am mindful of the fact that this matter has had a rather long history (compounded in no small measure by my own delay in delivering this decision) dating back to 2019.
 - (b) Whether if the amendment is allowed, delay will ensue, and whether there are likely to be additional costs because of the delay or because of the extent to which the hearing will be lengthened. I am mindful of the answer to question (a) and do not believe the proceedings will be further delayed or the hearing lengthened with the consequences as to costs.
 - (c) Whether the delay may have put the party in a position where evidence in relation to the new issue is available or rendered of a lesser quality than it would have been earlier. Having regard to the fact that the claim is one against H.M. Government of Gibraltar, I would have thought that adequate records will have been kept and do not believe evidential matters would in any way be adversely affected.
10. I hope I will be forgiven if I do not cite all the arguments (or the authorities in support thereof) put forward by the parties in their written submissions or orally at the hearing. All the relevant factors considered, I grant the Claimant permission to amend her Claim Form as applied for.

24th October 2024



Haresh K. Budhrani KC