



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mr B Middup

v

College of Policing Limited

Heard at: Watford

On: 22 November 2019

Before: Employment Judge George

Appearances

For the Claimant: In person

For the Respondent: Not given notice of the hearing and did not attend

APPLICATION FOR RECONSIDERATION

JUDGMENT

1. The application for reconsideration of the decision to reject the claimant's claim form is refused.

REASONS

1. The claimant was employed by the College of Policing Limited between 20 June 2007 and 18 January 2016 when he was dismissed. He had, according to the additional information he provided in his claim form, raised a grievance in 2015 about various acts of alleged incompetence on the part of the Senior Financial Managers. He said that, as a result of that grievance, seven false allegations of misconduct were made against him which allegations ultimately were the basis for the decision to dismiss him. He was of the view that the statements made against him were false, that his dismissal was unjustified and that it was an unfair dismissal. This led to an unfair dismissal claim (hereafter referred to as "the 2016 proceedings") that came before the Employment Tribunal for hearing on 8 February 2017. For reasons which the claimant explains in the representations made in his letter of 10 November 2019, he decided to withdraw the complaints made in the 2016 proceedings.

2. His ET1 in the present proceedings was presented on 3 August 2019 and in it he complains about allegedly false statements which he says were made about him in a witness statement which signed by Mr Richard Bennett on 23 September 2016 and which formed part of the statement evidence in the 2016 proceedings. None of the boxes in section 8.1 of the Form ET1 were ticked save that by which it was asserted that the Employment Tribunal had jurisdiction to deal with a complaint of knowingly making false and misleading statements to an Employment Tribunal.

3. The ET1 in the present proceedings was rejected on 15 August 2019 in a letter which unfortunately contained some spelling errors. I infer that it was intended to read:

Your claim form has been referred to Employment Judge Foxwell who has decided to reject it because your complaint is one which the tribunal has no jurisdiction to consider. The tribunal has no jurisdiction to hear a claim based on evidence given in similar proceedings. If there is fresh evidence then the claimant's remedy is to apply for reconsideration or permission to appeal out of time.

4. The claimant applied for a reconsideration of that decision on 27 August 2019. He argues that it would be in the public interest and in the interests of justice for him to be able to proceed with the claim because the respondent College is of standing and the Code of Ethics adopted by the Police Force means that when representatives of the respondent knowingly making false and misleading statements - as he alleges they did - it is in the public interest for the Employment Tribunal to be able consider it. Furthermore, he argues that there was a failure to comply with the legal obligation imposed on the College to tell the truth to the Employment Tribunal.

5. In his submissions before me he has expanded on those complaints. However, it is important to note that when he was asked what were the action or actions of the College about which he wishes to complain in the present proceedings he initially said that it was the dismissal on false grounds that caused him the detriment. He then said that the act he was complaining about was the fact that the college would not acknowledge that it had lied.

6. The first of those was, as it seems to me, the subject of the 2016 employment tribunal proceedings which the claimant accepts were dismissed on withdrawal.

7. The second of those I have explored in some detail with the claimant. I cannot see that that is a complaint that falls within Part IVA or V of the Employment Rights Act 1996 (protection from detriment, for example, on grounds of a protected disclosure) such that the Employment Tribunal has jurisdiction to consider it. That is where a claimant complains that they have made a disclosure of information in the public interest which falls within one of the protected categories and alleges that they have suffered a detriment because of that disclosure of information. That is not the complaint which the claimant makes.

8. Essentially, it seems to me that what the claimant is complaining about on the face of the claim form, amounts to an allegation of defamation – that the respondent has made false statements within a witness statement prepared for the purposes of an employment tribunal hearing. Whether he could succeed with a defamation claim in the civil courts, given the circumstances in which the statement was made, is not for me to judge. What I can and do judge is that that is not a cause of action which the Employment Tribunal has the jurisdiction to decide.
9. If on the other hand, as Employment Judge Foxwell appears to have suspected, the claimant is now seeking to repeat statements that false allegations were made about him during his employment, statements about which evidence was to be given in the 2016 proceedings, then that is something which should have been argued within the original proceedings. As Employment Judge Foxwell said, there is a technical prospect - and I stress that it is a technical prospect - that the claimant could appeal out of time, or apply for a reconsideration, of the dismissal of the 2016 claims. However, given that he apparently withdrew those proceedings and that they were dismissed on withdrawal, he would be well advised to take legal advice on his prospects of succeeding in such an application before doing so.
10. For those reasons I have decided that the claim form does not, on its face or as explained to me by the claimant, disclose a claim that the Employment Tribunal has jurisdiction to consider and I refuse the application for reconsideration.

Employment Judge George

Date:7 January 2020

Sent to the parties on: ...10.01.20.

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For the Tribunal Office