

**EMPLOYMENT TRIBUNALS (SCOTLAND)**

**Case No: S/4102472/2016**

**Held in Aberdeen on 10 November 2017**

5

**(By Telephone Conference Call)**

**Employment Judge: Mr J Hendry**

**Miss A Ali**

10

**Claimant  
Represented by:  
Mrs A Zaman  
Sister**

**Chief Constable  
Police Service of Scotland**

15

**First Respondent  
Represented by:  
Ms C Pender -  
Solicitor**

**Scottish Police Authority**

20

**Second Respondent  
Represented by:  
Ms C Pender –  
Solicitor**

25

30

**ORDER**

**Under Rule 29 of the Employment Tribunals Rules of Procedure 2013 the  
Employment Judge now issues the following Order:**

35

- 1. (a) No later than 21 days after the date of this Order the claimant shall send to the respondent (with a copy to the tribunal) written further particulars containing full details in chronological order of all the events or incidents upon which she relies in support of her**

claims, save that of the section 27 claim under the Equality Act , including in particular:

- 5
- i) the date of each event or incident,
  - ii) the persons involved, and
  - iii) what happened and what was done or said in each case.

10 (b) The respondent, if so advised, will prepare and send to the claimant and the tribunal a written response to those allegations within 21 days of receipt of them.

#### NOTE FOLLOWING PRELIMINARY HEARING

15

1. A Preliminary Hearing took place by telephone conference call on 10 November 2017 in order to discuss case management issues arising from the claims made by Ms Ali against the two respondents.
  2. A previous Preliminary Hearing took place in July 2016 dealt with by Judge Gall. The claimant has made claims for unfair dismissal and discrimination.
  3. My understanding was that the case was sisted to allow internal appeal processes to be concluded. They have now been concluded.
  4. At the outset Mrs Zaman indicated the claimant was still unwell. She had experienced a number of breakdowns and has been unable to afford specialist legal advice. I enquired as to Mrs Zaman's knowledge of employment matters and she confirmed that although she was a solicitor this was not her area of expertise.
  5. I first asked Ms Pender what her position was and how the case should proceed. Ms Pender had various issues in relation to specification of particularisation of the claims for direct discrimination (possible indirect discrimination and harassment). The only claim that had been addressed in her view was the claim for victimisation following the PH in July 2016.
- 20
- 25
- 30

6. Mrs Zaman indicated that a document had been prepared which set out the facts supportive of a section 27 claim. I indicated that she would have to do the same for any other claims that were being made namely aver what facts were being relied on in relation to harassment, direct discrimination and so forth.
7. Ms Pender reserved her right to ask for a Preliminary Hearing both on prospects and time bar as she believed that there were time bar issues. The respondents' position was that a number of the incidents were discrete and unconnected and out of time.
8. It was agreed that **the claimant's representative would have 21 days to lodge Better and Further Particulars supporting the other Equality Act claims** and providing Ms Pender with any additional specification that she seeks. **A Listing Letter will be sent out meantime to identify suitable dates in the new year for either a PH Hearing or a hearing on the merits.** It might be helpful for the Tribunal to be aware of the likely length of a merits hearing and for parties to consider what witnesses might be required for such a hearing at that stage. I made the suggestion without prejudice to the respondents' application for a Preliminary Hearing on the prospects of time bar.
9. There was then a general discussion in relation to the case. I noted that the claimant was in fragile mental health. I indicated to Mrs Zaman that she should discuss with the claimant and possibly her medical advisers what, if any adjustments we could make to the process to assist her give evidence. I indicated that the Judge dealing with the matter would certainly be amenable to allowing the claimant breaks in the proceedings but this is a matter that required to be clarified before any hearing dates are assigned. Mrs Zaman agreed to consider the matter and revert to the Tribunal.
10. I also raised the issue of witness statements. It seems to me that in the circumstances there will be a benefit in using witness statements. The claimant might find it less onerous to give evidence by way of a witness statement. Parties will also have the advantage of knowing what evidence the other side are leading in relation to the various incidents. **Ms Pender will**

consider the matter and come back to the Tribunal with her views once she has taken instructions but she indicated that their use might have some merit.

11. I will not issue standard hearing orders until the nature of the hearing has  
5 been ascertained. However, I am sure there is goodwill on behalf of both sides to co-operate with each other in relation to the matter. It important that the complaints/issues are properly focussed and would remind them of the comments of Lord Justice Mummery in the case of **Hendricks v Commissioner of Metropolitan Police** which are as follows:-

10 *“Before the applications proceed to a substantive hearing the parties should attempt to agree a list of issues and to formulate proposals about ways and means of reducing the area of dispute, the number of witnesses and the volume of documents. Attempts must be made by all concerned to keep the discrimination proceedings within reasonable  
15 bounds by concentrating on the most serious and the more recent allegations.”*

Employment Judge: Laura Doherty  
Date of Judgment: 11 February 2019  
Entered in register: 11 February 2019  
20 And copied to parties