



# EMPLOYMENT TRIBUNALS

**Claimant:** B

**Respondent:** Wolverhampton City Council

**Heard at:** Birmingham

**On:** 21 and 22 May 2024 (with calculations done in chambers on 23 May 2024)

**Before:** Employment Judge Meichen, Mr P Wilkinson, Mr N Howard

## Appearances

For the claimant: in person, assisted by an intermediary

For the respondents: Ms S Garner, barrister

## UNANIMOUS REMEDY JUDGMENT

### 1. The Tribunal decided as follows:

- a. The start date of the claimant's employment with the respondent would have been 1 August 2021.
- b. The sum of £25000 that the claimant received as a termination award in respect of her employment with Sandwell should not be deducted from her past loss of earnings.
- c. There should not be a reduction of 70% from the claimant's future loss of earnings on the basis that the actions of Sandwell, the claimant's preexisting health condition and other matters were partly causative of the loss.
- d. The claimant is likely to find suitable permanent employment within a period of 18 months and her future loss of earnings should therefore be limited to that period.
- e. The claimant should not be awarded any additional sum for travel or medical expenses.
- f. The respondent's contribution to the claimant's personal injury was 50% (it was agreed that the claimant had suffered a personal injury, that the discriminatory act by the respondent had been causative of the injury and that the appropriate level of compensation for the personal injury was £5600).
- g. The claimant should be awarded compensation for injury to feelings of £22500.
- h. The claimant's application for aggravated damages is refused.
- i. The claimant's application for recommendations is refused.
- j. The claimant's application for costs is refused.
- k. The claimant's application for an uplift for a failure to follow the acas

code is refused.

2. The Tribunal also decided that the award payable to the claimant should not be grossed up. This is because we considered that section 401 of the Income Tax (Earnings and Pensions) Act 2003 would not operate to tax the award. This is because the claimant was never employed by the respondent. Therefore the award in our view could not be said to be in consideration or in consequence of, or otherwise in connection with the termination of the claimant's employment, a change in the duties of the claimant's employment, or a change in the earnings from the claimant's employment.
3. In case we were wrong about the taxation of the claimant's award we discussed with the respondent whether the respondent would provide an indemnity to the claimant that if tax is payable the respondent would make up the shortfall. We suggested this would be advisable as it would prevent the parties having to come back to the tribunal for a reconsideration if tax were payable. The respondent agreed in principle that an indemnity should be provided, subject to authorisation being provided. This will be confirmed to the claimant asap.
4. The other remedy issues, including the application of a 1.75% pay increase, were agreed.
5. The respondent is therefore ordered to pay the claimant:
  - a. Compensation for injury to feelings of £22500.
  - b. Interest on the injury to feelings award at 8% from 29 June 2021 to 23 May 2024 in the sum of £5225.46.
  - c. Compensation for personal injury of £2800.
  - d. Interest on the personal injury award at 8% from the mid-point between 29 June 2021 and 23 May 2024 in the sum of £361.84.
  - e. Past loss of earnings of £27057.06 (for the period between 1 August 2021 to 23 May 2024 calculated using the claimant's agreed net weekly salary of £404 with the agreed 1.75% pay increase applied = £60262.86 then a reduction for the agreed figure which the claimant has obtained through mitigating her loss - £33205.80).
  - f. Interest on the past loss of earnings award at 8% from the mid-point between 1 August 2021 and 23 May 2024 in the sum of £3051.78.
  - g. Past loss of pension of £5041.57 (for the period between 1 August 2021 to 23 May 2024 calculated using the claimant's agreed weekly pension contribution of £34.39).
  - h. Future loss of earnings of £32063.46 (for a period of 18 months calculated using the claimant's agreed net weekly salary of £404 with the agreed 1.75% pay increase applied).
  - i. Future loss of pension of £2682.42 (for a period of 18 months calculated using the claimant's agreed weekly pension contribution of £34.39).
  - j. A total of £100,783.59 (22500 + 5225.46 + 2800 + 361.84 + 27057.06 + 3051.78 + 5041.57 + 32063.46 + 2682.42).

6. As this award is compensation for discrimination the recoupment provisions do not apply.

**Signed by: Employment Judge Meichen**

**Signed on: 10 June 2024**

Reasons for the judgement having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.