



EMPLOYMENT APPEAL TRIBUNAL

Appeal No UKEAT/0071/19/RN
Appeal No UKEAT/0072/19/RN
Appeal No UKEATPA/1103/18/RN
Appeal No UKEATPA/0447/19/RN

**HER HONOUR JUDGE STACEY
IN CHAMBERS**

IN THE MATTER of Appeals under Section 21(1) of the Employment Tribunals Act 1996 from the Judgments of an Employment Tribunal sitting at Birmingham and sent to the parties on the 5th day of October 2018, the 19th day of November 2018, the 6th day of December 2018 and the 3rd day of April 2019

BETWEEN:

MRS T KOSTAKOPOULOU

Appellant

- and -

UNIVERSITY OF WARWICK & OTHERS

Respondents

UPON the Appellant's application dated the 19th day of August 2019 seeking leave from the Employment Appeal Tribunal for the grant of a certificate under sections 37ZA to 37ZC of the Employment Tribunals Act 1996 (as amended)

AND UPON the Appellant's application for an extension of time in which to appeal to the Court of Appeal

AND UPON consideration of the aforesaid application

IT IS ORDERED that the application for the grant of a certificate for a leapfrog appeal to the Supreme Court pursuant to s.37ZA(1) of the Employment Tribunals Act 1996 (as amended) be refused for the Reasons attached.

IT IS FURTHER ORDERED that the Appellant's application for an extension of time in which to apply for leave to appeal to the Court of Appeal shall be referred to the Registrar for consideration.

IT IS DIRECTED that no appeal lies against the refusal of the certificate under s.37ZA(1) in accordance with s.37ZA(6) Employment Tribunals Act 1996.

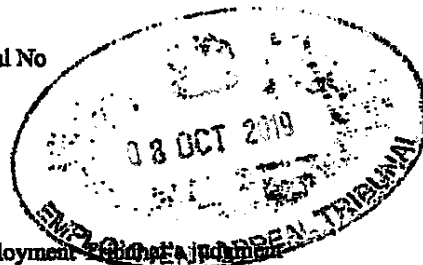
D A T E D the 6th day of September 2019

TO: Mrs Theodora Kostakopoulou the Appellant

Shakespeare Martineau LLP for the Respondents

The Secretary, Central Office of Employment Tribunals, England & Wales

(Case No.1301587/2017)



REASONS

1. There are four extant appeals before this Tribunal from the Employment Tribunal judgment which dismissed the Appellant's claim before it. In the opinion of the sift judge under the rule 3(7) procedure, some grounds were allowed to a preliminary hearing in EAT/0071/19 and EAT/0072/19 whilst PA/1103/18 and PA/0447/19 and the remaining grounds in EAT/0071/19 and EAT/0072/19 had no reasonable grounds for proceeding to a full hearing. The Appellant has exercised her right to an oral hearing in relation to each of the 4 proposed appeals under Rule 3(10) for a Judge to consider if there are arguable grounds in any of the proposed appeals.
2. The Appellant seeks to challenge 3 decisions of the Registrar in connection with those appeals set out in the Registrar's directions of 24 July 2019.

Registrar's first decision

3. The Registrar decided that appeal PA/0447/19 should be listed first, with the remaining rule 3(10) and preliminary hearings (the Remaining Hearings) to be stayed, pending the outcome of the PA0447/19 rule 3(10) hearing. PA0447/19 is an appeal against the striking out of the Appellant's claim before the Tribunal for failure to comply with an unless order. There is no appeal against the making of the unless order itself.
4. The Registrar's reasoning was that the Remaining Hearings would become academic if the 3(10) hearing in PA0447/19 was unsuccessful; since there would be nothing else left to appeal.

Registrar's second decision

5. The Appellant made an "interim application" to the Registrar following an order made by HH David Richardson refusing the Appellant's application for further and better particulars from the Respondent.
6. The Registrar refused the application since a challenge to HH David Richardson's judgment should be by way of appeal to the Court of Appeal, not an "interim application" to the Registrar.

Registrar's third decision

7. The Appellant made an "interim application" to the Registrar objecting to the posting of an Employment Tribunal decision on its website as the public record of the Tribunal's register of its decisions, which she said was harmful to her. The Registrar refused the application.

Appeal from Registrar's Order (ARO)

8. The Appellant appealed the Registrar's Order in relation to each of the three decisions contained in her directions of 24 July 2019. They were all dismissed by Mr Justice Choudhury, President, in chambers on 31 July 2019 and by sealed order of 12 August with reasons attached.
9. In the reasons for his Judgment he found that the Registrar was correct to direct the Rule 3(10) Hearing on 0447/19 precedes that of the Remaining Hearings since the other hearings may become academic and unnecessary, depending on the outcome of the 0447/19 Rule 3(10) hearing. He did not consider that the 4 appeals were inextricably linked or could not be separated and that there would be no injustice to the Appellant by 0447/19 being heard first.
10. The so-called "interim application" seeking to challenge HH David Richardson's ruling was not an interim application, but an attempted appeal of the ruling, for which the appropriate avenue was the Court of Appeal and not Registrar's application, so in that respect too Choudhury P held that the Registrar had been correct.
11. In relation to the Appellant's concern about the Tribunal decision being published on the Employment Tribunal website Choudhury P also rejected the Appellant's appeal: the EAT has no jurisdiction in respect of the register of decisions maintained by or on behalf of the Employment Tribunal.

Leapfrog Appeal Application

12. Pursuant to s37ZA Employment Tribunals Act 1996, this Tribunal may permit the granting of a certificate for an appeal from the EAT directly to the Supreme Court in cases where the appeal involves a point of law of general public importance which satisfies the conditions in ss(4) and (5) of that section.
13. Whilst there is no doubt that the issues are of very great importance to the Appellant and she has dedicated countless hours involved in litigation with her employer, the University of Warwick where she has been a Professor of EU Law, it cannot be said that any of the public importance criteria or conditions set out in s37ZA(4) or (5) have been met so as to enable this Tribunal to grant a certificate giving permission to apply direct to the Supreme Court for permission to appeal to that Court.
14. Her concerns about the alleged breaches of primary EU law, ECHR and Human Rights Act 1998, common law rights of procedural justice and access to justice can be considered at the Rule 3(10) hearing which considers whether there are arguable grounds for her appeal against the striking out of her ET claim for failure to comply with an Unless Order.
15. Her route of appeal from Choudhury P's Judgment is the Court of Appeal and there is nothing to justify the utilization of the Supreme Court leapfrog procedure in this case. The proceedings do not entail a decision relating to a matter of national importance, nor is the result of the proceedings so significant that a hearing by the Supreme Court is justified. Whilst not wishing in any way to underestimate the importance to the Appellant individually, no new point of law or point of law of national importance has been raised.
16. I therefore refuse the application for a certificate pursuant to s37ZA(1) of the Employment Tribunals Act 1996 (as amended).