



# IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2022-000041



Kostakopoulou –v– University of Warwick and Others

CA-2022-000041

## ORDER made by the Rt. Hon. Lady Justice Asplin

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal and a stay of execution

**Decision:** Permission to appeal refused on all grounds. Question of stay of execution does not arise.

### Reasons

There are 19 grounds of appeal. None of them have a real prospect of success and there is no compelling reason why the appeal should be heard.

The judge was entitled to strike out the claim on each of the three grounds he identified for the reasons he gave. Accordingly, he did not err in striking out the "human rights limb" of the claim (grounds 1, 2, 3, 4 and 5). The judge was entitled to find that the publications were part of the disciplinary process to which the Applicant had consented in her terms of employment.

The judge was entitled to find that the disciplinary procedure had been consented to and therefore, did not err in relation to grounds 6, 7, 8, 10, 11 and 13.

The judge addressed the principle of non-discrimination at [71] of his judgment and his conclusion reveals no error of law – ground 9.

Further the judge's approach to Friend reveals no error of law and in any event, he was entitled to strike out the claim on each or any of the grounds on which he based his decision – ground 12 and 14.

The judge was fully entitled to find as he did at [83] in relation to malice. He explained this adequately at [79] – [83] and his decision reveals no error in that regard – grounds 15 and 16.

The judge's conclusion in relation to Johnson reveals no error of law - grounds 17 and 18.

Further, he was otherwise entitled to decide as he did in relation to jurisdiction and that the respondent did not seek to suggest that the court lacked jurisdiction - ground 19.

He was also entitled, therefore, to find that these matters are within the province of the Employment Tribunal.

### Information for or directions to the parties

**Mediation:** Where permission has been granted or the application adjourned:

Does the case fall within the Court of Appeal Mediation Scheme (CAMS) automatic pilot categories (see below)?

Yes/No (delete as appropriate)

#### Pilot categories:

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• All cases involving a litigant in person (other than immigration and family appeals)</li> <li>• Personal injury and clinical negligence cases;</li> <li>• All other professional negligence cases;</li> <li>• Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual;</li> </ul> | <ul style="list-style-type: none"> <li>• Boundary disputes;</li> <li>• Inheritance disputes.</li> <li>• EAT Appeals</li> <li>• Residential landlord and tenant appeals</li> </ul> |
|---|---|

If yes, is there any reason not to refer to CAMS mediation under the pilot?

Yes/No (delete as appropriate)

If yes, please give reason:

Non-pilot cases: Do you wish to make a recommendation for mediation?

Yes/No (delete as appropriate)

**Where permission has been granted, or the application adjourned**

- a) time estimate (excluding judgment)
- b) any expedition

Signed:

Date: 8 March 2022

BY THE COURT

**Notes**

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
  - a) the Court considers that the appeal would have a real prospect of success; or
  - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).

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