



EMPLOYMENT APPEAL TRIBUNAL

Appeal Nos EA-2023-000871-AT, EA-2023-000872-AT,
EA-2023-000949-AT, EA-2023-000951-AT,
EA-2023-000952-AT, EA-2023-000953-AT,
EA-2023-000954-AT, EA-2023-001051-AT,
EA-2023-001089-AT, EA-2023-001271-AT
and EA-2024-001247-AT

BEFORE

**HIS HONOUR JUDGE JAMES TAYLER
SITTING ALONE**

IN THE MATTER of Appeals under Section 21(1) of the Employment Tribunals Act 1996 from the decisions of an Employment Tribunal sitting at Midlands West and sent to the parties on 22 May 2023, 01 June 2023, 02 June 2023, 13 June 2023 (with Written Reasons sent on 01 September 2023 and 13 September 2023), 14 June 2023, 07 July 2023, 03 August 2023, 08 August 2023, 22 August 2023, 13 September 2023 and 15 August 2024

BETWEEN:

Mrs T Kostakopoulou

Appellant

- and -

1. University of Warwick
2. Professor C Ennew
3. Professor A Sanders

Respondents

UPON HEARING Mrs T Kostakopoulou the Appellant in person

AND UPON the Appellant's applications pursuant to Rule 3(10) of the Employment Appeal Tribunal Rules 1993 (as amended)

AND UPON the matters having been heard on 24 April 2025 when the decision was reserved

IT IS ORDERED that the applications are dismissed

IT IS DIRECTED that no further action be taken on the appeals and the said appeals are thereby dismissed for the full written reasons attached

IT IS FURTHER DIRECTED that any application for permission to appeal should be made direct to the Court of Appeal within 7 days of the seal date of this Order

D A T E D 02 July 2025

TO: Mrs T Kostakopoulou the Appellant
Shakespeare Martineau LLP for the Respondents

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

(Case No. 1304457/2020 & Others)

Rule 3(10) application

Full Written Reasons

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|----------------|---|
| Appellant | Mrs T Kostakopoulou |
| Respondents | 1. University of Warwick 2. Professor C Ennew 3. Professor A Sanders |
| EAT References | EA-2023-000871-AT, EA-2023-000872-AT, EA-2023-000949-AT, EA-2023-000951-AT, EA-2023-000952-AT, EA-2023-000953-AT, EA-2023-000954-AT, EA-2023-001051-AT, EA-2023-001089-AT, EA-2023-001271-AT and EA-2024-001247-AT |
| Date | 02 July 2025 |
| Judge | His Honour Judge James Tayler |

Reasons

Introduction

1. I have considered 11 Rule 3(10) applications arising out of two Employment Tribunal claims that were due to be heard together, but were struck out at the commencement of the final hearing.
2. The claimant brought 24 previous appeals about earlier case management of these two claims.
3. The claimant is now subject to an Extended Civil Restraint Order sealed on 20 February 2025 (“ECRO”). In the judgment making the Order Mr Justice Bourne stated:

186. There is absolutely no doubt that the ECRO threshold, that “a party has persistently issued claims or made applications which are totally without merit”, is satisfied in this case. To argue otherwise is absurd. Where the usual threshold is 3 TWM applications, there have now been more than 10 times that number. The Claimant argues that some of these are “stale”, but that also emphasizes the length of the period of years during which she has persisted. Looking at her litigious activity in the round, it is characterised by her profound sense of

grievance and an apparent inability to accept defeat, not only in any claim but also in any discrete application. Her repeated contentions that her opponents have committed fraud, or that their lawyers have committed professional misconduct, or that judges have acted with bias and in breach of their judicial oath, are all clear indications of persistent and vexatious litigation.

187. In my judgment the only real question is whether it is necessary to give the Defendants, and the Court(s) and the ET (and EAT) the further protection of an ECRO.

188. I have decided that that further protection is necessary, for four principal reasons.

189. First, the LCRO has not been effective to stop the Claimant from making meritless applications. The Claimant denies that that order has any legal effect and has purported to make further Court applications without seeking the necessary permission.

190. Second, the LCRO does not apply to the ET or EAT. In the ET there has been a prolific quantity of TWM applications by the Claimant. Although proceedings have presently moved on from that tribunal, litigious activity of a similar kind has continued in the EAT up until very recently. In my judgment that carries some weight, notwithstanding two points made by the Claimant.

191. Although the Claimant argues that I should disregard the last certification by Eady J because she has made a complaint about it, it cannot be right that the Court cannot take any TWM certification into account while there is any extant challenge to it. That would reward litigants for persistently refusing to accept defeat and hamper the Court from providing the necessary protection against activity of that kind.

192. And, whilst the Claimant seeks to persuade me that the most recent orders by Eady J were void or wrong because they arose from emails which Eady J wrongly treated as constituting an appeal, that submission falls foul of the principle that a judge hearing a CRO application should not re-open the merits of previous TWM certifications. Moreover, the debate about the status of the emails in question cannot hide the fact that the EAT activity summarised at paragraph 156 above contains several of the hallmarks of the other applications which have been certified as TWM such as a refusal to accept defeat on any point, insistence that adverse orders are void and questioning of the good faith of judges.

193. Third, the Claimant's response to the ECRO application,

written and oral, demonstrates that she does not believe that she has done anything wrong. She believes that the numerous judges in various courts and tribunals have somehow all been mistaken, or biased.

194. Fourth, now that the 2021 High Court claim, claim 1518 and claim 1772 have all been struck out, there is a logical risk that the Claimant unless restrained may attempt to continue the dispute in some new claim.

195. The fact is that, whatever the underlying merits of her long-running disputes with the Defendants, the Claimant has grossly misused the procedures of the Courts and Tribunals. She refuses to recognise that fact and seems to assert a right to continue in the same vein. I conclude that there is a serious threat that that conduct will continue, and that it may occur outside the confines of the LCRO. There are therefore good grounds for the grant of an ECRO, with provision under the Court's inherent jurisdiction to extend its effect to the ET and the EAT.

4. The Rule 3(10) applications I am considering predate the making of the ECRO. It is implicit from paragraph 160 of the judgment of Bourne J that these Rule 3(10) applications were to proceed although any new applications in the appeals would be subject to the permission requirements in the ECRO.
5. I have considered the appeals on the basis of the material that was before the Employment Judges when they made their decisions rather than with the benefit of hindsight that demonstrated that the claimant was heading towards an ECRO.

The Employment Tribunal claims

6. The claimant was employed by the first respondent as a Professor of Law from 2012. I will use the term respondent to refer to the first respondent. The respondent asserted that the claimant had failed to meet with students at the beginning of the 2019/2020 academic year and then refused to attend meetings to discuss the issue. While

investigating her conduct the respondent contended that they discovered that the claimant had sought to intimidate two of the students. Disciplinary proceedings were commenced against the claimant. The claimant consistently sought more information about the charges brought against her and repeatedly challenged the procedure. Eventually the claimant was dismissed at a hearing held in her absence. There is a striking similarity between the approach that the claimant adopted to the internal proceedings and in the Employment Tribunal litigation.

7. In the ECRO judgment Bourne J concisely summarises the Employment Tribunal and subsequent High Court proceedings:

- (1) The Claimant was employed by the First Defendant (“the University”) as Professor of Law from 2012 onwards.
- (2) In 2016, disciplinary proceedings were commenced against her, leading to her receiving a written warning on 9 December 2016.
- (3) On 27 June 2017 she issued a claim in the Employment Tribunal (“the 2017 ET claim”) against the University and others, alleging detriment because of whistleblowing and other protected acts, race and sex discrimination, breaches of her human rights and EU law. No part of that claim succeeded, despite applications to the EAT and the Court of Appeal.
- (4) On 4 December 2019 further disciplinary proceedings were started against the Claimant and further allegations were added on 16 January 2020.
- (5) On 25 February 2020 she issued a second Employment Tribunal claim against the University and two others, alleging the infliction of detriment (the commencement of the disciplinary proceedings) as a result of protected acts under the Equality Act 2010 and the Employment Rights Act 1996.
- (6) The Claimant was dismissed by the University on 29 July 2020.

- (7) In August 2020 she issued a third Employment Tribunal claim against the University and another, alleging wrongful dismissal, unfair dismissal and interference with her rights under the ECHR and the EU Charter of Fundamental Rights.
 - (8) 15 January 2021 the Claimant issued a High Court claim against the same five Defendants who are sued in the present proceedings, for libel and malicious falsehood and infringement of her rights under the ECHR and the EUCFR and other provisions of EU law (“the 2021 High Court claim”).
 - (9) On 21 December 2021, Sir Andrew Nicol struck out the 2021 High Court claim. He also dismissed applications by the Claimant for judgment in default of defence and to strike out passages of one of the witness statements filed by the Defendants, and ordered her to pay costs.
 - (10) On 9 March 2022 Asplin LJ dismissed an application by the Claimant for permission to appeal against Sir Andrew Nicol’s decision. A further application to re-open the permission application was dismissed by Asplin LJ on 14 July 2022.
8. There were two fundamental sticking points in the Employment Tribunal to which the claimant repeatedly returned, never being prepared to accept any decision of the Employment Tribunal as final.
 9. Firstly, the claimant considers that the disciplinary allegations were vague, unsubstantiated, untrue and trumped up, as a consequence of which she required “further information factualising these allegations”. The claimant sought to use the Employment Tribunal proceedings to establish that the allegations are false. She is not prepared to accept that the pleading process is designed to set out the respondent’s case not to ascertain whether it is true. If the respondent had been unable to establish the reason for the treatment of the claimant, they might have failed in their defence of the claims. When looking at the reason for the claimant’s treatment the

Employment Tribunal would have had to decide what was in the minds of decision makers at the time the decisions were taken. If their reasoning at the time was illogical or unsupported by the material before them, that could have assisted the claimant in establishing her complaints. But that was to be established at the final hearing rather than through repeated applications for “factualisation”.

10. Secondly, the claimant asserts infringements of rights under the ECHR and the EU Charter of Fundamental Rights. There have been repeated attempts to clarify whether the claimant contends that these provisions should inform the construction of UK statutes or whether she is asserting “freestanding” rights. The claimant asserts both that she is not making freestanding complaints and that she is entitled to rely directly on the provisions.
11. The claimant has not been prepared to agree a list of issues or a bundle of documents.
12. The claimant considers that she is entitled to return to any disputed matter as many times as it takes for her to get the result that she wants. The claimant treats anything that she considers to be factually inaccurate as an untruth of the greatest importance, whether or not it was of any real significance to the management of the claims. The claimant is quick to accuse all involved in the proceedings of impropriety and dishonesty.
13. The claimant has not complied with the requirement in the overriding objective to co-operate with the respondents and the Employment Tribunal and does not seem to appreciate the importance of litigating

in a manner that takes account of the limited resources of the Employment Tribunal and the requirement that other parties receive their fair share, so that their disputes can be resolved within a reasonable time.

14. The claimant overcomplicates the issues and consistently focuses on minutiae rather than on the core issues. She sees the respondent and the judges who have tried to manage the claims as enemies with whom she is in a constant battle.

The appeals before me

15. Most of the appeals were considered by HHJ Auerbach who was of the opinion that there were no reasonable grounds for bringing the appeals as set out in a detailed and comprehensive Rule 3(7) letter sealed on 18 March 2024. Appeal EA-2024-001247-AT was considered by John Bowers KC who was of the opinion that there were no reasonable grounds for bringing the appeal. The Rule 3(7) letters should be attached to these reasons.

The key appeals EA-2023-001051-AT and EA-2023- 001271-AT

16. The key appeals challenge the decision to strike out the claims and the refusal of reconsideration. The claims were listed for a full hearing. There had been repeated attempts at case management. The Employment Tribunal found itself in a position where notwithstanding all the previous case management and orders there still was no agreement as to the issues and no agreed bundle of documents. The Employment Tribunal permissibly concluded that was unacceptable and that a final attempt should be made to clarify

the issues and finalise the documents which it permissibly saw as a prerequisite of a hearing that was fair to both parties. It is not arguable that there was any error of law in the Employment Tribunal deciding to start by holding a case management hearing. That was necessarily a private hearing because of rule 56 **ET Rules** (now Rule 54 **ET Rules 2024**). The claimant was unhappy that a transcript of the case management hearing was not originally provided. It now has been provided, and I have spent a considerable amount of time considering it and the voluminous material and grounds of appeal produced by the claimant. Despite this plethora of material which has already been considered in the Rule 3(7) opinion, there were in reality two core points; is it arguable that the manner in which case management was dealt with at the Preliminary Hearing before the final hearing commenced was unfair; and is it arguable that the Employment Tribunal erred in law by not imposing a set of issues, requiring the use of the respondent's bundle and proceeding to hear the claims rather than striking them out.

17. I have read the full transcript of the two-day case management hearing. Matters started off uncontroversially but became increasingly argumentative. At times the Employment Judge repeatedly interrupted the claimant and demonstrated some exasperation. However, I do not consider it is arguable that the hearing was unfair. The claimant had provided her own list of issues that vastly expanded on that previously sanctioned in case management. The claimant was both adamant that she was not

advancing “freestanding” complaints under the ECHR and the EU Charter of Fundamental Rights but also that she could rely on them directly. She would not shift from her wholly impracticable list of issues and could not state clearly what documents in her bundle were missing from the respondents’. The frustration apparent from the transcript must be seen in the context of the extensive previous case management that the claimant would not accept had determined the case management disputes. The claimant was still demanding further “factualisation”. Employment Judges sometimes must be robust in case management and keep control of the proceedings. They have considerable latitude in case management because they have the parties before them and so can reach an informed decision as to what will or will not work. I have concluded that it is not arguable that the Employment Tribunal erred in law in holding a case management discussion before starting the final hearing, in the case management undertaken in that hearing or that the claimant was treated unfairly.

18. The respondent applied for strike out when the final hearing commenced. The Employment Tribunal unarguably was right to determine that application. The key consideration was whether a fair trial remained possible. The question was not whether a fair trial could be achieved if time and resources were unlimited, but a fair trial could take place within the time allotted and without excessive use of the limited resources of the Employment Tribunal. One option was to impose the respondent’s list of issues, possibly limiting the claimant’s

involvement in the hearing, hope for the best, and just push ahead with the hearing. Some Employment Tribunals might have adopted that approach. The claimant could have made that appear to be a realistic option by agreeing that the time for disputes about case management was over and stating that she would abide by the case management directions of the Employment Tribunal and cooperate with the respondent. She did nothing of the sort. Her position was that the hearing should progress and that she would rely on her list of issues and bundle. The Employment Tribunal unarguably was entitled to have regard to the lamentable history of the proceedings. The claimant already had consumed vastly more than her fair share of the limited resources of the Employment Tribunal. The Overriding Objective requires, not requests, that parties cooperate with each other and the Employment Tribunal. The right to a fair hearing comes with reciprocal obligations to cooperate in achieving a hearing that is fair to all parties and pays proper regard to the requirement for others to have their claims heard within a reasonable period. I have concluded that it is not reasonably arguable that the Employment Tribunal erred in law in striking out the claims. The Employment Tribunal considered alternatives and unarguably was entitled to reject them. There is nothing in the earlier or subsequent appeals that arguably alters that conclusion. Prior to the final hearing the Employment Tribunal unarguably had taken proper steps in an attempt to bring the matter to a fair hearing. There was no arguable error of law in refusing reconsideration of the strike out or in respect

of how the claimant's request for a transcript/recording of the proceedings was dealt with. As permitted by Section 5.4 of the EAT Practice Direction 2024 I agree with and adopt the analysis of Judge Auerbach in his Rule 3(7) letter for being of the opinion that there were no reasonable grounds for bringing the appeals.

The other appeals

19. The other appeals I am considering were analysed very carefully at the sift stage and the opinions that the appeals were not arguable were detailed and thorough. As permitted by Section 5.4 of the EAT Practice Direction 2024 I agree with and adopt their analysis. In addition; the appeals about matters predating the strike out are academic because it is not arguable that the Employment Tribunal erred in law in striking the claims out; and the appeals that postdate the strike out concerning obtaining a transcript and related matters are also academic because the transcript has now been produced.

Overall

20. The applications pursuant to Rule 3(10) EAT Rules are dismissed which will have the consequence that the appeals are dismissed.
21. The Employment Tribunal struck out the claims because the claimant would not cooperate with the tribunal or the respondent to allow a fair hearing to take place. I have considered the question of whether there was any arguable error of law in that determination at the time the claim was struck out. I concluded there is not. That is my core reasoning based solely on the material that was before the Employment Judge. However, it is notable that the conclusion

reached by the Employment Tribunal has been proved correct by the claimant's conduct thereafter that resulted in the making of the ECRO. Even if there had been no arguable error of law in the decision of the Employment Tribunal the claimant has shown that the appeals would have been pointless because even if the appeal against strike out succeeded and the application for strike out was remitted she would not have cooperated thereafter with the respondent and Employment Tribunal, making a fair trial impossible.

22. I apologise for the delay in producing this decision. There was a large amount of material that I had to consider; albeit that I concluded that the core reason why the appeals are not reasonably arguable is straightforward and can be dealt with succinctly in a manner proportionate to the real issues in the appeals. I have also been under considerable pressure of other work.