



EMPLOYMENT TRIBUNALS

Claimant: Mr M Nair

Respondent: Consulate General of India Birmingham

Heard at: Birmingham **On:** 23 September 2019

Before: Judge BJ Doyle (President)
Mr RW White
Mr D Faulconbridge

Representation

Claimant: In person

Respondent: Not in attendance or represented

JUDGMENT

1. The complaint of less favourable treatment under the Fixed-term Employees (Less Favourable Treatment) Regulations 2002 is not well-founded and is dismissed.

2. However, by virtue of the Regulations and the provisions of the Employment Rights Act 1996, the claimant had continuity of employment between 3 September 2012 and 18 April 2018, and had become a permanent employee of the respondent on or by 3 September 2016, notwithstanding the respondent continuing to issue him with fixed term contracts after that date.

3. The claimant was summarily dismissed (without notice) by reason of redundancy on 18 April 2018, notwithstanding this appearing to be the expiry of a fixed term contract without notice or renewal.

4. The dismissal of the claimant on 18 April 2018 was both an unfair dismissal and a wrongful dismissal (a dismissal without notice).

5. Throughout the period of the claimant's continuous employment the respondent was in continuing breach of the claimant's entitlement to annual leave and payment for annual leave under the Working Time Regulations 1998 as amended.

6. The respondent was also in breach of its obligation to issue to the claimant

statutory particulars of employment in accordance with the Employment Rights Act 1996.

7. The claimant's complaint of direct discrimination because of religion contrary to the Equality Act 2010 is not well-founded and is dismissed.

8. The claimant is entitled to remedy as follows:

8.1 It is declared that the claimant was unfairly dismissed by the respondent.

8.2 The respondent is ordered to pay to the claimant compensation for unfair dismissal in the form of:

A basic award of £1,827.66 (6 weeks at £304.61 gross per week) and

A compensatory award of £2,675.06 (7.9 weeks at £272.16 net per week and loss of statutory rights at £525.00).

8.3 The claimant's request for a reinstatement order is refused.

8.4 The respondent is further ordered to pay to the claimant compensation for wrongful dismissal in the sum of £1,360.80 (5 weeks at £272.16 net per week)

8.5 The respondent is further ordered to pay to the claimant just and equitable compensation for continuing breach of the annual leave provisions of the Working Time Regulations 1998 for the period 3 September 2012 to 18 April 2018 in the sum of £9,381.68.

8.6 The respondent is further ordered to pay to the claimant compensation for its failure to provide to the claimant written particulars of employment in the sum of £1,218.44 (4 weeks at £304.61 gross).

8.7 The Recoupment Regulations do not apply to these awards.

Judge BJ Doyle (President)
23 September 2019

Notes

Reasons for the judgment 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.

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