



HR Broadcast – Clumsy Comments

I read an interesting article recently from the People Magazine, the magazine of the Chartered Institute of Personnel and Development. The article which was written by Hayley Kirton (1 August 2017) may just focus a few draconian views that still exist. The article reproduced here can also be found on the link below;

<http://www2.cipd.co.uk/pm/peoplemanagement/b/weblog/archive/2017/08/01/secretary-wins-163-360-000-after-manager-s-clumsy-comment.aspx>

“A FTSE 100 defence business, BAE Systems, must pay a former secretary £360,000 after one of its managers made a ‘clumsy’ comment that pushed her into a period of mental ill-health and ended her employment, the Court of Appeal has said.

Marion Konczak worked for BAE Systems as a secretary from 1998 until she was dismissed in July 2007. She was part of a liaison team which worked with officers from the Royal Saudi Air Force (RSAF) and was based in Samlesbury, near Preston. Although she initially got on well with the RSAF officers, she became unhappy with changes to their staff and said she was bullied and harassed, including two incidences of sexual harassment.

In 2005, Konczak was moved to BAE’s commercial team in nearby Warton. However, she was unhappy there, claiming she was not given a proper job to do. In 2006, she applied for a role back at the Samlesbury office.

Her line manager then suggested she should apply for a role within her old team. The secretary protested, arguing this would involve working with some of the same people she had raised complaints against in the past.

Feeling her concerns were not being taken seriously, Konczak later broke down in tears during a meeting with her line manager and a colleague. The manager came to see her afterwards. “In what appears to have been an attempt to express sympathy, however clumsily, he said words to the effect that women take things more emotionally than men, while men tend to forget things and move on,” the Court of Appeal judgment explained. Konczak described the comment as the “final straw” and her lawyer said the remark had “pushed her over the edge”.

Following the conversation, Konczak’s doctor certified her as unfit to work because of work-related stress. She did not return and was subsequently dismissed because, as BAE explained, “it not being appropriate for the claimant to return to her old job in the commercial department and ... there being no other positions for her”.

This led to several hearings at employment tribunal and employment appeal tribunal (EAT) level. While the courts either made no finding on or dismissed 15 complaints of sexual discrimination, it was decided her dismissal had been unfair and the EAT eventually concluded Konczak was entitled to £360,178.60 in damages. The 62-year-old was said to have suffered from mental ill health throughout the



HR Broadcast – Clumsy Comments

hearings, with the courts agreeing this had been at least aggravated by the length of the proceedings.

BAE appealed to have the payout reduced, arguing the award was “excessive”, but this was dismissed by the Court of Appeal yesterday.

Batting away BAE’s lawyer’s suggestion that the 15 other claims, for which the company had no legal responsibility, must have contributed to the former secretary’s mental state, Lord Justice Underhill said: “The basic rule is that a wrongdoer must take his victim as he finds him, eggshell personality and all. That is not inherently unjust.”

BAE Systems has been contacted for comment.”