



RELIGIOUS RIGHTS –V– GAY RIGHTS?

Legislation to prevent religious discrimination has been in force in Northern Ireland for over 30 years, however in England, laws on discrimination on the grounds of religion and belief were introduced only in 2003. A recent decision in the Employment Appeal Tribunal considered the competing rights of Religion and Belief and those under the Employment Equality (Sexual Orientation) Regulations 2003.

Ms Ladele was a practising Christian who worked in the London Borough of Islington Council from 1992 and became a Registrar of Births, Death and Marriages in 2002. New legislation was introduced in December 2005 to provide

legal recognition of same-sex marriages. Ms Ladele informed the Council that she would have difficulties conducting civil partnerships because of her Christian beliefs that marriage is the union between one man and one woman for life and she did not wish to take an active part in enabling same-sex unions that were contrary to God's law. The Council's was duty bound to provide civil partnership registration services. Ms Ladele initially swapped with her colleagues when she was rostered to conduct a civil partnership.

In early 2006, two other members of staff also refused to conduct civil partnerships, one was a Muslim who was offered the compromise of not performing ceremonies but registering civil partnerships, she rejected this and later resigned. The other agreed to a demotion at the same rate of pay. In March 2006, two gay members of staff complained that Ms Ladele was not carrying out any civil partnership duties. At a meeting Ms Ladele was advised that her continued refusal to conduct civil partnerships potentially breach the Council's Code of Conduct and Dignity for All policy and put her at risk of disciplinary proceedings. Ms Ladele complained that she was being discriminated against as a result of her religious beliefs.

The Council offered her the option of not officiating at civil partnership ceremonies but remaining involved in registrations subject to there being sufficient registrars available to conduct civil partnership ceremonies and the right to request her to perform all the civil partnership duties of her role. In May 2007, Ms Ladele was subjected to an investigation and disciplinary hearing and again offered the opportunity of participating in registrations together with a warning that rejecting this new job description could result in dismissal. Ms Ladele brought Employment Tribunal proceedings claiming that the Council's treatment of her amounted to discrimination and harassment.

The Tribunal upheld her complaint stating that she had been discriminated against because of her religious beliefs on a number of grounds; by designating her a civil partnership registrar and requiring her to carry out duties in breach of her contract; subjecting her to a disciplinary process, finding her guilty of gross misconduct, threatening to dismiss her and sharing details with other members of staff about action it proposed to take against her in breach of its confidentiality policy. It also found the Council guilty of harassment and indirect discrimination as it had failed to take account of her rights as an orthodox Christian and the service could have been provided without her involvement. The Council appealed.

The Employment Appeal Tribunal stated that there was no direct discrimination as the Council had applied the same rule to all registrars regardless of their religion – Ms Ladele was not treated any differently to anyone else. A failure to accommodate her religious belief could give rise to a claim for indirect religious discrimination but could not amount to direct discrimination where the rule applied to all registrars without exception. It also over-turned the finding on harassment and indirect discrimination, holding that the aim of the Council was to provide a service of civil

partnership which is a non-discriminatory aim and that it was proportionate to require Ms Ladele to carry out her duties with this legitimate objective.

Employers with concerns should always seek professional legal advice in dealing with all employee matters to avoid the costs of litigation. It is understood that Ms Ladele has sought leave to appeal this decision to the Court of Appeal.