

Caste discrimination claim succeeds

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Caste discrimination claim succeeds

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A case brought by a former domestic servant against her employers has established for the first time that a person may be treated as discriminated against on grounds of race where the derogatory treatment is connected to their caste status.

Ms Tirkey was employed by Mr and Mrs Chandhok as a domestic

worker, initially in India and then in the UK, between 2008 and 2012. Ms Tirkey is of the Adivasi caste, which is traditionally considered to be the 'servant' caste indicating low socio-economic status. Ms Tirkey brought a large number of claims against the Chandhoks which related to the derogatory and unfair treatment she received whilst employed by them. They included a claim for discrimination on grounds of race, which Ms Tirkey later sought to amend to add a complaint of caste discrimination.

At present, whilst ethnic origin is expressly mentioned by the legislation as an aspect of race; caste is not. On that basis, the Chandhoks sought to strike out the claim. The Employment Appeal Tribunal in December 2014 rejected the strike-out attempt, holding that caste can be considered an aspect of race for the purposes of racial discrimination. Previous cases had found that Jews and Sikhs were entitled to protection related to their ethnic origin; President Langstaff at the EAT concluded that "ethnic origin" therefore has a wide ambit which includes characteristics determined by descent. As caste is traditionally an inherited quality which does not change, it could fit that definition.

Ms Tirkey's claims were therefore heard in the Employment Tribunal and were all successful. The Tribunal held that Ms Tirkey had been paid below the minimum wage for the duration of her employment and calculated that the shortfall was £183,773.53.

This case is the first to make clear that a person can be discriminated against on grounds of their caste. One can also conceive of other characteristics which may satisfy President Langstaff's definition of "ethnic origin"; for example, class status in the UK is arguably determined by a person's descent.

Tirkey v Chandhok and another ET/3400174/13

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