DIRECT DISCRIMINATION DUE TO “PERCEIVED” DISABILITY OF POLICE OFFICER

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The Claimant, Mrs Coffey, applied to the Wiltshire Constabulary to become a police constable. However, a medical examination revealed that she suffered from some hearing loss. Following Home Office guidance, the Wiltshire Constabulary arranged for a practical functionality test, which she passed.

This enabled Mrs Coffey to work as a constable (without any adjustments).

Mrs Coffey later applied to transfer to the Norfolk Constabulary, disclosing her hearing loss and providing a copy of the report from the functionality test and advised that no adjustments to her role had been necessary. She underwent a first medical, which recommended an “at work” test. Rather than provide this, the constabulary obtained a further medical opinion. The advice stated that Mrs Coffey would pass a practical test and a further ENT specialist reported that her hearing levels were stable. Despite this, the Acting Chief Inspector (ACI) rejected the application on the grounds that she did not meet the National Standards on hearing.

The Court of Appeal held that for claims of perceived disability discrimination, the alleged discriminator must believe that all elements in the statutory definition of disability were present although they did not have to attach the label “disability” to them. That was the case here even though in fact the employee was not disabled.

The Court concluded that the ACI had wrongly acted on the basis of a stereotypical assumption that Mrs Coffey’s hearing loss would render her incapable of performing front-line duties.

Chief Constable of Norfolk v Coffey [2019] EWCA Civ 1061

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