

Refusal to permit a 5-week holiday was not religious discrimination

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The refusal of a Catholic employee's 5-week holiday to attend religious festivals was not indirect religious discrimination.

Mr Gareddu was a practicing Roman Catholic originating from Sardinia. He worked as an engineer for the London Underground. Mr Gareddu was contractually entitled to 38 days' holiday per year inclusive of bank holidays, and in the past he had been

permitted to take 5-week long holidays in summer to return to Sardinia.

A new manager was allocated to Mr Gareddu from March 2013. The new manager told Mr Gareddu that he would not be permitted to take 5 consecutive weeks' annual leave again in the following year, and that a limit of 15 consecutive days would apply in future. Though Mr Gareddu's 2014 break was permitted to go ahead because it was pre-booked, his request for 5 weeks' leave in 2015 was rejected.

Mr Gareddu challenged that refusal on the basis that it was indirectly discriminatory on the basis of his religion. He argued that he utilised the 5-week holiday to attend 17 or 18 ancient Roman Catholic festivals in Sardinia held in and around August each year, and that London Underground's 3-week limit therefore put him at a particular disadvantage compared to those without the same religious beliefs.

The Employment Appeal Tribunal rejected Mr Gareddu's argument and agreed with the Employment Tribunal's decision that he had not been discriminated against. Evidence elicited at trial showed that Mr Gareddu had not attended any festivals whilst in Sardinia in 2014 due to injury, and in 2013 had only attended 9 of the 17 or 18 festivals he stated were important to his beliefs. The EAT accepted that it was not a problem for Mr Gareddu to have mixed motivations for taking the 5-week holiday, so the benefit of seeing his family did not defeat his claim; however, the notion that he was required to attend the full regimen of festivals each year did not appear to be a genuine reason for his holidays.

In this case, had the need to attend the festivals been found to be a genuine reason for the need to take an extended holiday, the disadvantage to Mr Gareddu may have been made out. However, it may then have been possible for London Underground to assert that their decision was justified as a proportionate means of achieving a legitimate aim.

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