

Request to wear shorter jilbab: discrimination or health and safety?

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An employer's request that a Muslim employee wear a shorter jilbab for health and safety reasons was held not to be

discriminatory.

Ms Begum applied for an apprenticeship as a trainee nursery nurse at the Barley Lane Montessori Day Nursery. Ms Begum was a practicing Muslim who wore a jilbab (a long, flowing garment covering most of the body, except the hands and face). Ms Begum was invited to interview for the role and work a trial period. Ms Begum did so whilst wearing her jilbab and reportedly performed well.

The nursery offered Ms Begum the apprenticeship and invited her to a meeting to discuss its policies and procedures, including uniform. The nursery noted that Ms Begum's jilbab was long and, from the way she was sitting, it appeared to be floor-length. Ms Begum was asked whether she would be willing to wear a shorter jilbab so as to reduce the risk of tripping and injuring herself or the children. Ms Begum asked for time to consider and discuss the matter with her family.

Ms Begum did not report for work as expected. Instead, she brought a claim of indirect discrimination on grounds of religion; she alleged that the nursery had forbade her from wearing her jilbab.

The EAT found that the nursery had not discriminated against Ms Begum because it had not restricted her from wearing a jilbab, but rather suggested that she wear a somewhat shorter version so as to prevent tripping. It was material that 4 other staff at the nursery were Muslim women, one of whom wore an ankle-length jilbab to work. As Ms Begum was still permitted to wear a jilbab, she could not be said to be disadvantaged. It was found that even if Ms Begum were disadvantaged, it was legitimate to enforce the requirement in the interests of health and safety.

The nature of the job – caring for babies and small children – was, of course, a material factor in this decision. Before employers place restrictions on the wearing of religious

attire, they should satisfy themselves that they have good reasons for doing so, and that any restrictions that they impose go no further than necessary.

Begum v Pedagogy Auras UK Ltd (t/a Barley Lane Montessori Day Nursery) UKEAT/0309/13

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