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## EMPLOYMENT TRIBUNALS

**Claimant:** Mrs M Murphy

**Respondent:** Assett Chemist Ltd

**Heard at:** East London Hearing Centre

**On:** 21 August 2018

**Before:** Employment Judge Moor

**Members:** Mrs W Blake-Ranken  
Mr P Pendle

**Representation:**

Claimant: Mr S Pinder, solicitor

Respondent: Did not attend

## JUDGMENT

The unanimous judgment of the Employment Tribunal is that:-

1. The unfair dismissal complaint is well-founded.
2. The Respondent discriminated against the Claimant because of race by constructively dismissing her and subjecting her to the detriments in relation to:
  - 2.1. education and development;
  - 2.2. demotion to shop assistant
  - 2.3. failure to consider her for promotion to supervisor/manager dispatch
  - 2.4. failure to treat her complaint about staff not communicating in English seriously;
  - 2.5. failure to deal with her complaint about a supervisor and her formal grievance.

**The Respondent is ordered to pay to the Claimant the sum of £61,635. The calculation for this award is set out in the Appendix attached.**

Employment Judge Moor

23 August 2018

Note

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

**Public access to employment tribunal decisions**

All judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

**APPENDIX****REMEDY CALCULATION****1. Relevant Dates**

Date started employment	07/09/2004
Date of discrimination	29/04/2017
Effective date of termination (edt)	29/04/2017
Date of birth	10/05/1957
State retirement age	10/05/2023
Remedy hearing date	21/08/2018

Net weekly pay at EDT	230.00
Gross weekly pay at EDT	250.00

**2. BASIC AWARD**

1.5 x 12 x 250 =	<b><u>4500.00</u></b>
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**3. PAST LOSS EARNINGS**

Weeks from edt to today x net pay	
68.4 weeks x 230 =	15,732.00
Plus loss statutory rights	350.00
Less earnings with Atlas cleaning	
From 10.7.17 – 21.08.18	<u>(6412.00)</u>
	9670.00

**Adjustments to Past Loss**

ACAS Uplift of 25% on past loss	<u>2417.5</u>
	12087.5
Interest at 8% for 240 days (mid point Between date discrimination and today)	
8% x 240/365 x 12087.5 =	635.80

<b>Total past loss earnings</b>	<b>12,723.30</b>
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**4. FUTURE LOSS EARNINGS**

Number of weeks to retirement age = 246.1	
Loss of future earnings at net weekly pay	
246.1 x 230 =	56,603.00
Less future earnings at 20 hrs pw x min wage	
246.1 20 x 7.83 =	<u>(38,539.26)</u>
	18,063.74

**Adjustments to Future Loss**

ACAS Uplift of 25% on future loss	4,515.93
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<b>Total future loss</b>	<b>22,579.67</b>
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No pension loss.

No reduction for accelerated receipt on the basis of

current low interest rates and inflation.  
Cap on compensation award does not apply under Equality Act.

#### 5. TOTAL FINANCIAL LOSS AWARD

Including interest and ACAS uplift

12723.30 + 22579.67 = **35,302.97**

#### 6. NON FINANCIAL LOSS

Injury to feelings 12,000.00

ACAS uplift of 25% 3,000.00

Interest at 8% for 479 days = 10.5% x 15,000= 1575.00

**Total non financial award 16,575.00**

#### 7. SUMMARY TOTALS

Basic award 4,500.00

Financial loss 35,302.97

Non-financial loss 16,575.00

**Total before grossing up 56,377.97**

#### 8. GROSSING-UP

Awards greater than £30,000 are likely to be subject to tax, including Injury to Feelings, see Moorthy v Revenue & Customs [2018] EWCA Civ 847. The Tribunal therefore calculates the tax on the award the Claimant is likely to pay in the 2018/19 tax year.

Tax free allowance **30,000.00**

Total award minus tax free allowance balance = 26,377.97

Other salary 18/19 estimated £6,500.00

Balance from personal allowance £11,850 - 6,500 = **5,350.00**

Deduct p allowance balance 26,377.97-5350 21,027.97

Gross up this amount at basic rate tax 20%

21027.97 /0.8 = **26,285**

**Total compensation after grossing up for tax to be paid upon it**

**30,000 + 5,350 + 26,285 = £61,635**