Samira Ahmed v. BBC – equal pay for equal work

On 10th January 2020, the ET found unanimously that the BBC had failed to discharge its burden under s.69(1) of the Equality Act 2010. The work of Samira Ahmed on “Newswatch” was like that of Jeremy Vine on “Points of View”. The BBC failed to show that the difference in pay was because of any of the factors on which it had relied, or to rebut the presumption of sex discrimination.

The issues were—

1. Whether Ms. Ahmed’s work on Newswatch was like Mr. Vine’s work on Points of View, or alternatively whether they were of equal value;
2. Whether any of the factors raised by the BBC were the real reason for, the cause of, or material to the difference in pay; and
3. In relation to any such factors—
   1. Whether they involved any sex discrimination and whether they were a proportionate means of achieving a legitimate aim,
   2. When they applied and whether they ceased to apply, and
   3. Whether they accounted for all the difference in pay or if not then what proportion.

The work Ms. Ahmed and Mr. Vine did in presenting their respective programmes was the same or at least very similar. The Tribunal were particularly scathing of the BBC’s suggestion that the lighter tone of Points of View meant different skills were required to present it, that Mr. Vines had to have a “glint in the eye” and to be “cheeky”. The Tribunal stated that they struggled to understand what that meant and how it translated into the skill or experience required to do a job. The “attempts at humour” came from the script and required no particular skill to convey. Nor did they accept that Mr. Vine bore additional responsibility by following in the footsteps of Terry Wogan.

The Tribunal found that none of the following factors raised by the BBC caused the difference in pay:

1. Differences between the profiles of the two programmes;
2. Differences between the two presenters’ public profile/level of audience recognition;
3. Differences between the two presenters’ broadcasting experience and range;
4. Specific market pressures when Mr. Vine negotiated his terms in 2008 (specifically that a rival broadcaster had made him an offer); and
5. In part, the fact that Ms. Ahmed was engaged on a standard employment contract whilst Mr. Vine was engaged on a freelance basis through a personal service company.

They also found that the rate of £3,000 per episode was higher than the market rate payable for Mr. Vine. This was despite the fact that the team which made the offer to him knew nothing of the rival broadcasters, and that he had signed a deal to work exclusively for the BBC for three years so there could have been no market pressure.

Accordingly, the sex equality clause bit and Ms. Ahmed’s claim succeeded in full. It is hard to see how the case could have been more of a rout. The pay clauses in her contracts (£440/episode) shall be modified so as not to be less favourable than those in Mr. Vine’s contracts (£3,000/episode).

<https://www.judiciary.uk/wp-content/uploads/2020/01/2206858-2018rjr.pdf>