

# Woman who was sacked for wearing a headscarf loses religious discrimination claim on a technicality

Posted: Wed, 8th Aug 2012

A Muslim woman in London who claimed she had been sacked from her job in a luggage shop because she wore a headscarf has won her claim of unfair dismissal but lost a claim of direct religious discrimination.

Ms Farrah brought the claims against Global Luggage Company after it moved her to a different store to maintain its "trendy" image and later forced her to resign.

Originally, Farrah worked in both the Oxford Street and Piccadilly branches of Global Luggage Co on alternate days each weekend. However, the day after Farrah wore a headscarf to work one of the directors immediately moved her to the Oxford Street store and changed her rota so that she no longer worked at the Piccadilly store.

When Farrah challenged one of the directors as to whether the reason for this move was because she had worn a headscarf, she was told that the company was "trying to maintain an image at Piccadilly" and that it was "trying to be trendy".

A couple of months later, Farrah was forced to resign after she took an extended lunch break.

However, the tribunal ruled that the company had "seized on the claimant's admitted misconduct as a pretext for dismissing her" and that the real reason for her forced resignation was that she had worn a headscarf to work.

The employment tribunal regretted that Ms Farrah brought a direct, and not indirect, discrimination claim. It said that the correct comparator for a direct discrimination claim was a non-Muslim or a woman, whether Muslim or otherwise, wearing the same headscarf for non-religious reasons. There was no evidence that such a person would have been treated any differently. In the tribunal's view, it was the headscarf, and not the claimant's Muslim faith, to which the employer objected.

The tribunal concluded that, had Ms Farrah claimed indirect discrimination, the provision, criterion or practice would have been the requirement not to wear a headscarf, a rule with which Muslim women would have had more difficulty complying than non-Muslim women.

However, the tribunal went on to uphold Ms Farrah's unfair dismissal claim, concluding that she was either actually or constructively dismissed. She was given a clear indication by the directors that she had no future with the company. She was told that, if she did not resign, she would inevitably be dismissed. This deprived her of her freewill and forced her to resign.

Recent pronouncements from the Prime Minister, David Cameron, that he intended to introduce new protections at work for people wearing religious symbols were described as unnecessary by Stephen Simpson, senior employment law editor at XpertHR. He argued that Farrah's case shows that current legislation is already sufficient for this type of claim.

"The circumstances in this case are pertinent at this time, with two cases about religious symbols in the workplace due before the European Court of Human rights in September and David Cameron's vow to 'change the law' to allow people to wear religious symbols in the workplace.

"The outcome in this case is a good example of how religious discrimination legislation works perfectly well as it is – although the claimant lost because of the way she presented her claim, the tribunal was clear that, had she claimed indirect discrimination, she would have undoubtedly succeeded."

The cases to be heard in Strasbourg in September are those of Nadia Eweida, the British Airways employee who wanted to wear a cross on a chain against the company's "no jewellery" uniform policy and nurse Shirley Chaplin who also wanted to wear a cross and chain in contravention of hospital uniform and health and safety policy.

The National Secular Society has been given permission by the European Court to intervene in these cases and you can read our submission [here](#) (pdf).

See also: [Q&A about the law on religion and belief discrimination at work](#)

- [Share on What's App](#)
- [Share on Facebook](#)
- [Share on Twitter](#)
- [Share on Email](#)
- [Subscribe to RSS Feed](#)

Tags: [FoRB](#)

## Related Campaigns

- 

### [Freedom of religion or belief](#)

Secularism protects freedom of religion or belief for all.

[Read More](#)

## Related Articles

### [We must empower secular schools to assert their ethos](#)

When Islamists tried to bully Michaela Community School, the school refused to back down. Other schools have not been so successful in challenging religious intimidation. Megan Manson explores what made Michaela different. [Read More »](#)

## **School's decision to restrict prayer rituals lawful, court finds**

Disadvantage to Muslim pupils outweighed by need to promote interests of whole school community, judge says. [Read More »](#)

## **The universality of human rights needs defending**

Seventy-five years on from the adoption of the Universal Declaration of Human Rights, its promise of freedom and equality remains a distant dream for those living under religious rule, says Stephen Evans. [Read More »](#)

## **Freedom of religion or belief must include the freedom to 'blaspheme'**

The freedom to question and criticise religious ideas in the same manner as any other kind is foundational to a democratic... [Read More »](#)

## **Established church hinders religious freedom, NSS tells UN expert**

The NSS has told a UN expert that lack of separation between Church and state is undermining freedom of religion or belief in the UK. [Read More »](#)