

Sexual and age discrimination law employment essay

Law



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Heeae Chae 20123537 Professor. Louis Patterson March. 17th. 2013 For the case of sexual and age discrimination, I've separated into two parts of writing. Firstly, I wrote about the sexual discrimination in terms of workplace. Second, I wrote about grey sphere at workplace. Gender discrimination Sex discrimination acknowledges four forms of discrimination: direct / indirect discrimination, harassment, and victimization. The gender discrimination has not been eradicated at some or most in the business world. I've selected down to three cases of gender discrimination; at upper levels of occupancy, when women get pregnant, and at the military recruiting. In fact that male can be discriminated, I've focused on discrimination toward women. I added the importance of even-out the gender inequality at workplaces. There is suggestion that there are innate differences in the ability of men and women to do science. A simple piece of research led by Jo Handelsman at Yale University has recently suggested that women are treated less fairly than men. By giving out forms to fill to the science graduate wanting a laboratory manager job, 127 faculty members were asked to rank the candidate in terms of competence, starting salary they would offer, willingness to coach the candidate, and likability. The result revealed that women ranked less competent than men and was offered a median starting salary almost \$4,000 lower than men. In addition, the faculty was less willing to mentor women, but strangely found them to be more likeable. On a subconscious level, data like this sustains the implication that men in science didn't necessarily get there on merit itself, but because their female competitors were being discriminated against, which must be quite threatening and provoking a defensive response. Another recent report published by the

Chartered Management Institute found that female executives earn £400,000 less over the course of their working lives than male colleagues with identical careers - and are far more likely to be made redundant. It seems that simply increasing the numbers of women on hiring panels is unlikely to solve the problem as the bias exists in all of us. Second, Pregnancy discrimination is a form of sex discrimination. Women are suffered from escalating levels of illegal discrimination at workplace when they get pregnant. An amendment to title VII of the Civil Rights Act of 1964 states that " discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination" According to EOC(Equal Opportunities Commission), it is estimated that 30,000 women sadly lost their jobs each year as a result of being pregnant and is believed that figure has dramatically risen. The recent poll shows that one out of seven women had lost their job while on maternity leave. Majority surveyed at the poll said their jobs had changed by the time they returned, with a cut in hours or demotion. More than a tenth interviewed said their jobs had been replaced by person who had covered their maternity leave. It is common that when a woman goes back to her role and all her clients have been given to other people who would not return, which means what she has built up over the years is gone. They are becoming redundant ahead of worse-performing men. The big issue that the women is now less committed to job because of their being mothers adds the silent suffering to women. Thirdly, it is on debate whether the women are qualified for military scene. The decision by the Pentagon to lift the ban on women serving in close combat roles has inevitably raised questions about why the UK won't follow suit. The stated

reasons are not simple, but essentially related to men while it has nothing to do with women being not strong enough or capable enough. Rather, it boils down to problems of men believing they might become less efficient with women around and over-protective as well. A report upon which the Ministry of Defence relies for this position states : " Key concerns, expressed by men and women, are around women being a distraction and the dangers associated with close relationships, men's desire to protect women and, despite the fact that we explicitly said this study was not addressing the issue, women's relatively lower physical strength and stamina. A significant number of men felt that, despite having had positive experiences of women, they would not want women in the infantry - there was a feeling amongst many that they would not feel comfortable asking a woman to close with and kill the enemy at very close range, and that they were concerned about the woman's response to this situation arising. This final step is felt to be different and a step too far." Even though problem lies at men themselves, women are discriminated in the military recruitment. Gender inequality is wrong in several terms. It is morally wrong, is bad economics and is bad for business. Besides the cases I've picked, the prominent evidences are shown as disparities in earnings for equal work, significant overrepresentation of men in leadership positions, limited occupational choices for women and men, and pay inequality. Especially in the emerging markets where the scene of egregious examples of gender related violence and the abuse of women threatens the society, gender inequality at work should not be ignored. Gender inequality in forms of guises and disguises is a largely unheralded threat to the countries which now looks for prosperity, cohesion

and sustained growth. Since the discrimination occurs, at least in parts of world, we should proceed further to get over the gender inequality issue, at the evaluation stage of the paper application, by hiring committees shortlist the " best" female applicants. While this, which, in turn, can be put on another debate of reverse discrimination, it lays out the next step of the evaluation to be done in person, where many of the subconscious influences are no longer invoked. It's important to have the law on one's side when workplace discrimination becomes too much to handle. According to Gender Equality Blueprint 2010 led by Elizabeth Broderick, the Sex Discrimination Commissioner, has identified the following five priority areas to promote gender equality: ensuring women's lifetime economic stability and security, balancing paid work and family and caring responsibilities, promoting women in leadership, preventing violence against women and sexual harassment, and, strictly enhancing national gender equality laws agencies and monitoring. If you want to get inspired and get confident to overcome the inequality at workplace, I'd recommend to pick up the book " Lean in". The author, Sheryl Sandberg who is the COO(chief operating officer) of Facebook, talks about how strong she wants to lead all female workers get paid more by overcoming their timidity to ask and negotiate through her book, " Lead in". You can also look up the paperwork for further insights about gender inequality by Elizabeth Blackburn, Ada Yonath and Carol Greider

Age discrimination is international issue. It comes to be a more serious problem when thinking that older people without economic or legal protection are vulnerable to violence and neglect. The old people are threatened from various aspects. 1) They won't maintain good health, or

have the energy and desire to perform the job the way a younger worker might. 2) They have underlying feeling that they are resistant to change and not up to speed with technology. 3) They worry about the perception that they're not in it for the long haul as employers see them close to retirement time. 4) The perception that older people don't want to work with someone younger than they are. 5) If they accept a job at lower salary, or not as lofty a position as they held in last position, a hiring manager might conclude they will jump ship if a better offer comes their way. Besides those, older jobseekers find it increasingly limited for chances of promotion and a much longer time to have a new job because not many of them are as fortunate to have an in-demand technique and expertise. Age discrimination puts a higher standard of proof, therefore, making it a far more difficult issue because older workers must now prove that age was the decisive role, unlike the rules that apply to workers who have been discriminated against due to race, sex, nationality, and religion. In fact, while Federal age-discrimination law is designated to protect workers over 40, A 2009 Supreme Court of U. S. decision has substantially heightened the burden of proof required to win an age-discrimination case. The most evident reality that pushed older people into threat is that older people don't have a traditional pension, haven't saved enough for retirement and have been shut out of the workforce as the recession seeped across corporates in recent years. AARP(Association of American Retired Persons.) found that only 29% of non-retirees have or are close to having enough to retire comfortably and also added that they will have to work for a number of years more to retire comfortably. Also among retirees, 16% revealed that they may need to return to work. Cases (all

works cited)I picked two cases, one is that the claim against the age discrimination was proven to be justified and other is about the direct discrimination of using discriminatory dictions.#1. 05 July 2012.

Subjects : Justification; Retirement; International caseMr Hörnfeldt had begun working for the Swedish postal services agency since 1989. For most of his employment, he worked just one day a week (although he wished to do more), but eventually worked 75% of full time hours. When he reached 67 on 15 May 200, he was retired at the end of that month in accordance with the Swedish mandatory retirement " 67-year rule". Because Swedish pensions are calculated according to income earned over a whole career, Mr Hörnfeldt's pension entitlement was low and did not afford him enough money to live on. Mr Hörnfeldt brought a claim arguing that his retirement was direct age discrimination and that his dismissal should be annulled. He argued that, because the 67-year rule did not take into account other factors such as his low pension entitlement, it could not be justified. The Swedish Government argued that the legitimate aims behind the 67-year rule were: to avoid termination of employment contracts in situations that are humiliating for workers by reason of their advanced age; to enable pension regimes to be adjusted on the basis of the principle that income received over the full course of a career must be taken into account; to reduce obstacles for those who wish to work beyond their 65th birthday; to adapt to demographic developments and anticipate the risk of labour shortages; to establish a right, and not an obligation, to work until the age of 67, in the sense that an employment relationship may continue beyond the age of 65; andto make it easier for young people to enter the labour market. The key

question for the ECJ was whether or not the 67-year rule was justified. The ECJ accepted that these aims are, in principle, legitimate. It then went on to consider whether the 67-year rule was an appropriate and necessary way of achieving these aims. When considering this, the ECJ said that a compulsory retirement age was a commonly used tool by Member States to strike a balance between political, economic, social, demographic and/or budgetary considerations, and those Member States needed the discretion to find the right balance. This is perhaps why the ECJ did not consider whether 67 was the appropriate age to achieve these aims and why it did not assess whether another, less discriminatory, age (such as 70) might still allow the Swedish government's aims to be fulfilled. The ECJ also referred to certain state benefits that an individual will be able to receive where their pension entitlement is low, as well as alternative employment arrangements that those aged 67 or above can enter into when their employment terminates (such as fixed term contracts). The 67-year rule does not force individuals to withdraw definitively from the labour market, but simply lays down the conditions under which an employer may derogate from the prohibition of age discrimination. After having considered these factors, the ECJ concluded that the 67-year rule was justified.

#2. 18 January 2012

Subjects : News; Burden of proof; Direct Discrimination
Mr James began working as a Production Manager for Gina Shoes Ltd in April 2006. He was 58 years old. In 2009, as a result of the recession, Gina Shoes Ltd experienced a reduction in orders. One of the company directors, Mr Kurdash, became dissatisfied with Mr James' performance. In July, Mr Kurdash and Mr James

met to discuss Mr James' performance. At the meeting, Mr Kurdash asked Mr James whether his poor performance was caused by his age, adding that if he had been younger, it might have been possible to train him. Mr James, who was quite upset by these comments, resigned in August. In October, a grievance meeting took place, Mr Kurdash made a second remark about Mr James's age and said words to the effect of " you can't teach an old dog new tricks." Mr James brought a claim of unfair dismissal and age discrimination. The Employment Tribunal upheld Mr James's unfair dismissal claim (but held that he would have been dismissed anyway after 6 months due to his contributory conduct) and dismissed his age discrimination claim. The Employment Tribunal disregarded Mr Kurdash's second remark about Mr James's age because it had been made after Mr James' resignation. It held that Mr Kurdash's remarks had probably been taken out of context and that there was nothing other than those comments to suggest that Gina Shoes Ltd's treatment of Mr James had been a result of age discrimination. Mr James appealed to the EAT on both on contributory conduct and age discrimination.

Decision

The EAT allowed Mr James's appeal on both counts. The EAT found that the fact that Mr Kurdash's second remark came after Mr James's resignation did not mean that it could not amount to detrimental treatment. The two occasions on which Mr Kurdash had commented on Mr James's age clearly suggested that there was a prima facie case of age discrimination; it was immaterial that there was " nothing else" that demonstrated that age was a factor in the treatment of Mr James. This was enough to shift the burden of

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proof to Gina Shoes Ltd. It fell to them to provide a credible, non-discriminatory explanation for their treatment of Mr James, but Gina Shoes Ltd had failed to provide one. In relation to the unfair dismissal claim, the EAT found that the Employment Tribunal had erred as it had considered the question of contributory conduct despite the fact that it had not been raised prior to its judgment. Brighter side Hiring older people has definite advantages at workplace. Both younger workers and the older workers will learn from each other. While younger people lend a hand with technology, the older workers give back with knowledge of how to get things done with tried and true methods and smarts about office politics. To check how older workers are still eligible to conduct the job, see the video of one nurse who is doing internship and learning at college in her 50+: <http://www.forbes.com/sites/kerryhannon/2012/02/16/older-workers-staying-on-the-job/> To reduce the Age discrimination, attitude, stereotypes that can lead to discrimination against people of different ages should be edified. The older people should know that there are many great jobs out there. And they need to know where to look and how to prepare and market themselves to take one. The older jobseekers are recommended to keep up with technology, to prepare age-related questions, highlight that age doesn't matter, and at the same time, being open to reveal the age. Laurie McCann, AARP Foundation Senior Litigation Attorney discusses age discrimination, how to make a claim of age discrimination and provides tips for older jobseekers. Check her video : <http://www.overfiftyandoutofwork.com/experts/laurie-mccann/Work> cited: <http://www.guardian.co.uk/world/2013/jan/31/womens-vital-role-emerging-markets><http://www.guardian.co.uk/uk/defence-and-security->

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