UK tribunal orders bank to rehire UK employee in Hong Kong

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OVERVIEW

JP Morgan Securities plc was recently ordered to rehire an employee in Hong Kong after an employment tribunal hearing in the case of B Jones v JP Morgan Securities plc. The tribunal also ordered JP Morgan to pay him £1.5 million as compensation for the lost salary between the period of dismissal and re-engagement.

In an earlier decision in the case, the tribunal decided that a former JP Morgan trader, Mr. Jones, was unfairly dismissed for a 2016 trade that the bank claimed to be "spoofing," or market manipulation. The tribunal found that the termination was done to "appease" authorities.

The bank had alleged that Mr. Jones submitted and deleted two sell orders within seconds of each other on a single day in 2016. The bank's monitoring system classified these transactions as potentially abusive but no charges were brought against Mr. Jones at that time, and JP Morgan had judged that Mr. Jones had not participated in any wrongdoing.

Mr. Jones was however fired four years later. In 2019, JP Morgan decided to re-examine the incident after implementing a new spoofing policy and an internal market conduct review. After a disciplinary hearing, Mr. Jones was fired from his role for misconduct. Mr. Jones filed his unfair dismissal claims with the tribunal.

FINDINGS

The tribunal had earlier decided that Mr. Jones's dismissal was unfair. In a hearing for judgment on remedy, Mr. Jones demanded reinstatement and sought to be compensated for the lost wages. In the hearing, he also mentioned that JP Morgan had issued a formal reference indicating he was not a suitable and appropriate person for the position, which would adversely affect his prospects of getting a job from other employers.

JP Morgan argued that Mr. Jones did not wish to be rehired and that this was a strategy for him to maximise his compensation because of the limit on compensation that could be awarded to him. The bank added that his reinstatement was not feasible because of the layoffs in Mr. Jones's team.

The tribunal decided that Mr. Jones would be unable to operate in a regulated capacity in the UK financial services because of the bank's negative regulatory reference. However, it ruled that reengaging with a foreign JP Morgan entity was possible due to its worldwide reach and so the bank could rehire him in Hong Kong.

ANALYSIS

The key takeaway from this judgment is the fact the tribunal took in account of the international reach of JP Morgan to comply with an order to rehire. The tribunal was willing to order the re-engagement of an employee by a foreign branch, and this has implications for international corporations. This decision might also serve as a deterrent to banks from seeking to reopen investigations against employee misconduct merely to appease regulators.

Please **reach out to us** if you have any questions.

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