

MICHAEL FORD QC: LIST OF MAIN REPORTED CASES

[Cases are listed with most recent first]

1. ***Mercer v Alternative Futures Group***, [2024] UKSC 12, [2024] ICR 814, [2024] IRLR 599, Supreme Court: the leading case on the individual right to strike in the UK and first appellate authority to recognise a right to strike. The Supreme Court held UK law was in breach of Article 11 of the European Convention on Human Rights. In particular, the absence of any legislative protection for workers and union officials who are subject to sanctions short of dismissal for participating in a lawful strike meant the UK was in breach of its positive obligations under Article 11. Although the SC held it was not possible to interpret domestic law to overcome this deficiency under s.3 of the Human Rights Act, it granted a declaration of incompatibility under s.4 of that Act.
2. ***Ryanair (1), McGinley Aviation (2) v Lutz*** [2024] IRLR 299, EAT: leading authority on whether an agency worker is a “worker” for purpose of domestic law and key authority on protection of workers under Agency Worker Regulations; acted for successful claimant, Mr Lutz.
3. ***Chief Constable of the Police Service of Northern Ireland v Agnew*** [2023] UKSC 33, [2024] IRLR 56: appeared for intervenor, making submissions that ***Bear Scotland*** was wrongly decided and a “series” of deductions from wages is not broken by a three-month gap or an intervening lawful payment. The Supreme Court agreed.
4. ***R (ASLEF and others) v Secretary of State for Business and Trade*** [2023] ICR 1405, [2023] IRLR 83: successful judicial review of regulations removing prohibition on use of agency workers to replace workers on strike; regulations quashed by Administrative Court.
5. ***Harpur Trust v Brazel*** [2022] UKSC 21, [2022] ICR 1380, [2022] IRLR 867: appeared for intervenor, UNISON; Supreme Court held that term-time workers were entitled to 5.6 weeks’ annual leave each leave year, without any pro rata discount, in accordance with UNISON’s submissions.
6. ***Mercer v Alternative Future Group Ltd*** [2022] ICR 1034, [2022] IRLR 517: CA held that UK law failed to provide adequate protection for workers subject to action short of dismissal for taking part in industrial action; but, overturning EAT, it held it was not possible to construe s.146 of TULRCA to provide that protection and it was not appropriate to issue a declaration of incompatibility.
7. ***Smith v Pimlico Plumbers*** [2022] EWCA Civ 70, [2022] ICR 818, [2022] IRLR 347: CA held that, in circumstances where an employer denies worker status,

all the four weeks' leave due under WTR and the Directive carries over and accumulates until termination of employment, regardless of whether worker takes leave not. Appeared for successful claimant, Mr Smith.

8. *Mercer v Alternative Future Group Ltd* [2021] ICR 1598, [2021] IRLR 620: EAT upheld argument that Article 11 ECHR precluded disciplinary action taken against strikers and that s.146 of TULRCA could be interpreted to achieve that result under s.3 of Human Rights Act.
9. *British Airways v BALPA* [2019] EWCA Civ 1663, [2020] IRLR 43: CA upheld argument that union was not required to provide such details of categories of pilots as would assist BA in planning for strike. Leading authority on meaning of 'categories' in s.226A and s.234A of TULRCA.
10. *Harpur Trust v Brazel* [2019] EWCA Civ 1402, [2020] ICR 584, [2019] IRLR 102, CA: case on term-time teachers and annual leave; acted for intervenor, UNISON, whose arguments were largely adopted by the CA.
11. *Dudley v Willetts* [2018] ICR 31, [2017] IRLR 870, EAT: voluntary overtime and annual leave under EU and UK law: EAT accepted it counted for payments in respect of holiday.
12. *R (UNISON) v Lord Chancellor* [2017] UKSC 51, [2020] AC 869, [2017] ICR 1037, [2017] 3 WLR 409, [2017] IRLR 911, SC: the Supreme Court overturned the Tribunal Fees Order, holding it was void *ab initio*, with consequence that tribunal fees were unlawful; instructed by EHRC as intervener.
13. *Smith v United Kingdom* [2017] IRLR 771, ECtHR: blacklisting and Articles 8 and 11 ECHR; instructed by Liberty as intervener.
14. *Unite v United Kingdom* [2017] IRLR 438, (2016) E.H.R.R. SE7, ECtHR: unsuccessful challenge to abolition of Agricultural Wages Board, based on Article 11 ECHR.
15. *British Gas v Lock* [2016] IRLR 946, [2017] ICR 1, CA: leading authority on interpretation of Working Time Regulations - CA held it included commission in accordance with EU law.
16. *Griffiths v Secretary of State for Work and Pensions* [2015] EWCA Civ 1265, [2017] ICR 160, [2016] IRLR 216: leading case on duty to make reasonable adjustments in disability discrimination.
17. *R (UNISON) (No.2) v Lord Chancellor (Equality and Human Rights Commission intervening)* [2015] IRLR 911, [2016] ICR 1, CA: judicial review on Fees Order in employment tribunals; instructed by EHRC.

18. *Lock v British Gas (No.2)* [2015] IRLR 438, ET: holiday pay and commission.
19. *Chandhok v Tirkey* [2015] ICR 527, [2015] IRLR 195, [2014] EqLR 183, EAT: first appellate authority on caste discrimination under Equality Act; instructed by EHRC.
20. *ISS Mediclean v GMB* [2015] IRLR 96, High Court: strike injunction - Singh J upheld union's arguments on whether there was a trade dispute.
21. *R(UNISON) (No.2) v Lord Chancellor (Equality and Human Rights Commission intervening)* [2015] ICR 390, [2015] IRLR 99, [2014] EWHC 4198 (Admin): judicial review on Fees Order in employment tribunals; instructed by EHRC.
22. *Bear Scotland v Fulton; Hertel v Woods* [2015] ICR 221, [2015] IRLR 15, EAT: leading authority payments to be included in annual leave under Working Time Regulations 1998.
23. *Lock v British Gas* [2014] ICR 813, [2014] IRLR 64, Court of Justice of EU: commission payments and annual leave.
24. *RMT v United Kingdom*, Application No. 31045/10, European Court of Human Rights [2014] IRLR 467, [2014] 37 BHRC 145: secondary action and right to strike.
25. *Allen v Morrison* [2014] ICR 792, [2014] IRLR 514, EAT: consultation under TUPE.
26. *R(UNISON) v Lord Chancellor (Equality and Human Rights Commission intervening)* [2014] ICR 498, [2014] IRLR 266, High Court: judicial review on Fees Order in employment tribunals
27. *Allen v TRW Systems Limited* [2013] IRLR 699, [2013] ICR D13, EAT: contractual redundancy payments.
28. *Dutton v Jones* [2013] ICR 559, EAT: redundancy payments during lay-off and short-time working.
29. *British Airways v Williams* [2012] UKSC 43, [2012] ICR 1375, [2012] IRLR 963, Supreme Court: holiday pay for pilots under Civil Aviation Regulations.
30. *Salter v Chief Constable of Dorset* [2012] EWCA Civ 1047, CA: judicial review of Police Appeals Tribunal.

31. *NHS Leeds v Larner* [2012] EWCA Civ 1034, [2012] ICR 1389, [2012] IRLR 825, [2012] 3 CMLR 46, CA: rights of sick workers to take annual leave.
32. *Metroline Travel v Unite* [2012] EWHC 1778, [2012] IRLR 749, High Court: strike injunction.
33. *Abendshine v Sunderland CC* [2012] ICR 1087, EAT: public sector equal pay and statutory grievance procedures.
34. *Balfour Beatty Engineering Services v Unite* [2012] EWHC 267, [2012] ICR 822, [2012] IRLR 452, High Court: strike injunction.
35. *Hosso v European Credit Management Ltd* [2011] EWCA Civ 1589, [2012] ICR 547, [2012] IRLR 235, CA: boundary between equal pay and sex discrimination claims.
36. *Singh v Bristol Sikh Temple* UKEAT/0429/11, EAT: whether Sikh priest “worker” for purpose of national minimum wage.
37. *R (Chief Constable of Dorset) v Police Appeals Tribunal* [2011] EWHC 3366, Admin Court: judicial review of PAT.
38. *Williams v British Airways*, Case C-155/10 [2011] ECR I-8409 [2012] ICR 847 [2011] IRLR 948, ECJ: elements of pay to be included in paid annual leave under Working Time Directives.
39. *Williams v British Airways* [2010] UKSC 16, [2010] IRLR 541, Supreme Court: hearing before reference to ECJ.
40. *Gibb v Maidstone and Tunbridge Wells NHS Trust* [2010] EWCA 678, [2010] IRLR 786: *ultra vires* and termination payments; unjust enrichment.
41. *Commissioner of Customs and Excise v Ainsworth* [2009] UKHL 31, [2009] ICR 985, [2009] IRLR 677, HL: leading domestic case paid annual leave and scope of ETs unlawful deduction of wages jurisdiction.
42. *Stringer v Revenue and Customs Commissioners*, Case C-520-06, [2009] ECR I-179, [2009] ICR 932, [2009] IRLR 214, ECJ, Grand Chamber: workers are entitled to paid annual leave when off sick.
43. *British Airways v Grundy* [2008] EWCA Civ 875, [2008] IRLR 815, CA: justification of equal pay.
44. *Grundy v British Airways* [2007] EWCA Civ 1020, [2008] IRLR 74, CA: leading case on scope of comparison under equal pay/sex discrimination

claims.

45. *Carter v Ahsan* [2007] UKHL 51, [2008] 1 AC 699, [2008] ICR 82, [2008] IRLR 243, HL: discrimination law and political parties.
46. *UNISON v Allen* [2008] ICR 114, [2007] IRLR 975, EAT: transfer of undertakings and pensions.
47. *HMRC v Stringer* [2007] 2 CMLR 20: reference to ECJ in *Stringer* litigation.
48. *ASLEF v United Kingdom* [(2007) 45 EHRR 34, [2007] IRLR 361, European Court of Human Rights: trade unions have right to reject those with political ideologies opposed to the politics of the union.
49. *Inland Revenue v Ainsworth* [2005] ICR 1149, [2005] IRLR 465: CA ruling that worker on sick leave cannot take annual leave; later overturned by SC.
50. *British Airways v Starmar* [2005] IRLR 862, EAT: indirect discrimination - meaning of provision, criterion or practice and justification.
51. *Robertson v DEFRA* [2005] ICR 750, [2005] IRLR 363, CA: scope of comparisons in equal pay.
52. *Paterson v London Borough of Islington* [2004] All ER (D) 233 Apr, EAT: equal pay.
53. *R (Chief Constable of Avon and Somerset Constabulary) v Police Appeals Tribunal* [2004] EWHC 220, [2004] Po. LR 116, (2004) The Times 11 February.
54. *Chief Constable of Kent v Baskerville* [2003] EWCA Civ 1354, [2003] ICR 1463, CA
55. *DEFRA v Robertson* [2004] ICR 1289, EAT: comparisons in equal pay law.
56. *R (on the application of South Wales Police Authority) v Morgan* [2003] EWHC 2274, [2003] Pens. LR 355, [2003] Pol. LR 374
57. *Balfour Kilpatrick v Acheson* [2003] IRLR 683, EAT: rights to unfair dismissal based on health and safety in context of dismissal of whole workforce.
58. *Duthie v Bath & NE Somerset Council* [2003] ICR 1405, EAT: scope of health and safety consultation.
59. *Clinch v Dorset Police Authority* [2003] EWHC 161 (Admin), [2003] Pens. LR 59, [2003] Po. LR 68: construction of Police Pension Regulations.

60. *Beckmann v Dynamco Whicheloe*, Case C-164/00, [2002] ECR I-4893, [2003] ICR 50, [2003] IRLR 578, ECJ: right to benefits payable on redundancy after age 50 transfer under TUPE Regulations.
61. *AB v CD* [2001] IRLR 808, Chancery Division: construction of trade union rule book.
62. *Southwark LBC v Whillier* [2001] EWCA Civ 808, [2001] ICR 1016, CA: victimisation of trade union members.
63. *R (Stunt) v Mallett* [2001] EWCA Civ 265, [2001] ICR 989, CA: scope of execution of duty under Police Pension Regulations.
64. *Allen v Amalgamated Construction*, Case C-234/98, [1999] ECR I-8643, [2000] ICR 436, [2000] IRLR 119, ECJ: transfers within corporate groups.
65. *Vidler v Unison* [1999] ICR 746, ET: vexatious litigants and ETs.
66. *White v South London Transport* [1998] ICR 293, EAT: redundancy consultation.
67. *Steele, Lush and others v United Kingdom* (1999) 28 EHRR 903, European Court of Human Rights: right to protest.
68. *National Federation of Self Employed v Philpott* [1997] ICR 518, EAT
69. *Wise v USDAW* [1996] ICR 691, High Court: union rule book, *Foss v Harbottle*.
70. *National Union of Mineworkers v Millward* [1995] ICR 482, EAT
71. *Chambers v DPP; Edwards v DPP* [1995] Crim LR 896; [1995] COD 321: criminal offence under Public Order Act.
72. *Shelley Films v Rex Features Ltd* [1994] EMLR 134, High Court
73. *Department of Transport v Williams*, Times, December 7, 1993, CA: injunction in Twyford Downs protests.