In the High Court of Justice
Queen's Bench Division
Administrative Court

CO/1717/2022

In the matter of an application for judicial review

THE QUEEN

on the application of

ACHYUT PATEL

Claimant

-and-

LONDON TRIBUNALS ENVIRONMENTAL AND TRAFFIC ADJUDICATORS

Defendant

LB HARROW COUNCIL

Interested Party

Notification of the Judge's decision on the application for permission to apply for judicial review (CPR 54.11, 54.12)

Following consideration of the documents lodged by the Claimant and the Acknowledgement(s) of Service filed by the Defendant

ORDER by
Dexter Dias QC, sitting as a Deputy High Court Judge

1. The application for permission to apply for judicial review is refused.

2. No order for costs.

Reasons

1. The claimant seeks permission to challenge by way of judicial review the decision of the defendant dated 26 March 2022. The adjudicator was Michael Burke.
2. This was a refusal of an appeal against a penalty charge notice issued by the interested party. It was in respect of a traffic contravention on 30 November 2021 in Christchurch Avenue.
3. This claim discloses a fundamental misunderstanding of the law on the part of the claimant.
4. The clear purpose of s.4(6)(a) of London Local Authorities and Transport for London Act 2003 ("the Act") is to prevent a road user being penalised twice for the same traffic contravention: once under a traffic management order (TMO) and once as a s.36 traffic sign infraction.

5. The interpretation of the statutory provision advanced by the claimant would create an absurdity: it would render any otherwise valid TMO ineffective and would require enforcement of violations exclusively as s.36 traffic sign infractions. That cannot have been the intention of Parliament. Instead, Parliament was anxious to protect members of the public from unfair and disproportionate double jeopardy.
6. Therefore in this case it is not disputed by the claimant that there was an extant valid TMO for the route in question. He accepts that he drove his vehicle into a zone restricted by the TMO to local buses, cycles and taxis only. It is accordingly impossible to understand how the TMO contravention alleged has not occurred.
7. I turn to the decision impugned. The adjudicator plainly understood the law correctly and properly applied it.
8. He referred the claimant appropriately to the decision in *Rosshandler v LB Southwark* (15 November 2018). I cite the relevant passage of decision:

> The purpose of this provision is simply to prevent the possibility the motorist being in double jeopardy of paying a penalty for two aspects of the same contravention. A motorist contravening a sign cannot also be required to pay penalty for contravening the Traffic Management Order. The vehicle in the present case was in breach both of the order and the sign indicating its effect. Only a single Penalty Charge Notice was issued demanding penalty charge. If the Enforcement Authority was demanding payment of the penalty charge for the breach of the Order then it is indeed difficult to see how it could lawfully do so in view of the plain wording of Section 4(6). However, the Penalty Charge Notice in this present case makes no reference to breach of the Traffic Management Order and simply states on its face that the ground on which it is believed a penalty is payable as 'using a route restricted to certain vehicles (local buses and cycles only).

9. I am satisfied that this represents an accurate recitation of the governing law. I am not persuaded by the decisions cited to me by the claimant.
10. Of course, in the instant case the authority issued a Penalty Charge Notice in respect of the TMO as opposed to a s.36 breach. What would have been unlawful is if the claimant had been pursued for both the s.36 contravention as well as the TMO violation. He was not.
11. Section 4(5)(a) of the Act authorises a penalty charge if the person 'acts in contravention of a prescribed order'. The TMO is such an order. The claimant acted in contravention of it.
12. Thus, I find that the adjudicator had in mind the correct law and applied it correctly.
13. The decision was not irrational. There was no identified procedural impropriety.
14. Therefore, the claim does not raise any arguable ground of review which has a realistic prospect of success: CPR 54.4.2.
15. Permission is refused.

Signed: **DEXTER DIAS QC, SITTING AS A DEPUTY HIGH COURT JUDGE**

Dated: **26/07/22**

The date of service of this order is calculated from the date in the section below

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For completion by the Administrative Court Office

Sent / Handed to

either the Claimant, and the Defendant [and the Interested Party]
or the Claimant's, and the Defendant's [and the Interested Party's] solicitors

Date: **26/07/22**

Solicitors: **IN PERSON**
Ref No.

Notes for the Claimant

If you request the decision to be reconsidered at a hearing in open court under CPR 54.12, you must complete and serve the enclosed Form 86B within 7 days of the service of this order.

A fee is payable on submission of Form 86B. ***For details of the current fee please refer to the Administrative Court fees table at*** https://www.gov.uk/court-fees-what-they-are.

Failure to pay the fee or submit a certified application for fee remission may result in the claim being struck out.

The form to make an application for remission of a court fee can be obtained from the gov.uk website at https://www.gov.uk/get-help-with-court-fees