



EMPLOYMENT TRIBUNALS

Claimant
Mrs. S. Shanker

Respondent
Ayur Beauty Plus Limited

v

CONSIDERATION OF APPLICATION Rule 72(1)

The application for a reconsideration is refused.

1. Judgment with written reasons was sent to the parties on 21 November 2018. By email dated 5 December 2018 the claimant's husband applied in time on her behalf for a reconsideration. The claimant's husband sent the application again by a further email on 7 December, together with an 'Addendum'. Strictly that Addendum is out of time, but I have read and considered it.
2. By rule 72 of schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, an employment judge shall consider any application made under rule 71 (i.e. for a reconsideration). If the judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused.
3. There is a single ground for reconsideration according to rule 70: where it is necessary in the interests of justice. This does not mean that every unsuccessful party to a claim is entitled to a reconsideration. The discretion to allow a reconsideration is broad, but must be exercised judicially, which means having regard not only to the interests of the party seeking the reconsideration, but also to the interests of the other party and to the public interest requirement that there should, so far as possible, be finality of litigation.
4. I have carefully re-read the judgment and read the claimant's application for reconsideration.
5. The claimant has made a thoughtfully prepared application; however I refuse it. It amounts to a re-arguing of the case after and in the light of the judgment.
6. The judgment makes findings about the credit of the parties, in particular at paragraph 19 but also in relation to specific matters throughout the findings of fact.

There must be finality of litigation and it is not in the public interest to allow such matters to be re-argued, even if the claimant does not agree with them.

7. The claimant wished to have precise particulars of the alleged threatening behaviour: however, the focus of the issues was not *precisely* what she did on 17 February, but what was the reason for the dismissal: whether the events of 17 February rather than the disclosures were the reason for the dismissal. The findings at paragraph 43 to 46 deal with this issue.

8. The judgment did in fact find that the claimant was not given her terms and conditions of employment (paragraph 25), and that she was told that the respondent did not give holiday pay or sick pay (paragraphs 35 and 40). It was not a necessary finding that other members of staff were not given their statutory rights.

9. The key evidence about the incident on 17 February came not from Devina Shah, but from the claimant (paragraph 43).

10. The tribunal spent from 10.19am to 3.44 pm (save for a break for lunch from 1.06 to 2.06 pm) dealing with 'housekeeping' matters: mainly to do with contested documents. In accordance with rule 41, the tribunal regulated its own procedure and conducted the hearing in the manner it considered fair, having regard to the principles contained in the overriding objective. The parties had a full opportunity during the hearing to make representations about documents. Decisions about documents were made in the exercise of the tribunal's discretion. It is not in the interests of justice now to re-open those decisions.

11. There is no prospect of the original decision being varied or revoked. Accordingly, I refuse the application.

Employment Judge Heal

Date: ...25.01.19.....

Sent to the parties on:29.01.19.....

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For the Tribunal Office