Case No: 1800045/2017

EMPLOYMENT TRIBUNALS

Claimant: Mr A Rashid

Respondent: The Sheffield College

JUDGMENT

The claimant's application dated 12 January 2018 for reconsideration of the judgment sent to the parties on 22 December 2017 is refused.

REASONS

1. Employment Judge Starr has considered the Claimant's application under rule 71 for a reconsideration of the judgment and concluded that there is no reasonable prospect of the original decision being varied or revoked. The application is refused.

2. The Claimant's grounds for a reconsideration were that the Tribunal had failed to consider relevant evidence available to it and that new evidence had come to light since the hearing that demonstrates the unfair conduct of Stuart Blythe towards other staff previously working for the Respondent.

3. There is new evidence in the witness statements provided with the Claimant's application from:
    i. Deborah Prence
    ii. Janet Lester,
    iii. Paul Salmons
    iv. The Claimant

    The first two of these witnesses are new in the case. There is no adequate explanation given for the failure to serve witness statements from these witnesses as part of the preparation for the hearing, nor for seeking to adduce new evidence from the existing witnesses (Mr Salmons and the Claimant). The Claimant had already relied on two supplemental witness statements and latitude was extended to the Claimant as a litigant in person during the hearing such that his extended re-examination and additional submissions were allowed. Separately, the statements of Deborah Prence and Janet Lester do not appear relevant.

4. The new statement of Paul Salmons also includes (at paragraphs 1 – 2) corrections to facts found by the Tribunal about training and an increase in level 3 work. The new statement of the Claimant also includes corrections to facts found by the Tribunal. There is a new assertion that functional skills maths did not include GCSE; this is surprising since the hearing proceeded on the basis that it did. There was ample opportunity to correct that fact during the hearing. The Claimant gives evidence that certain colleagues were not registered with Sparks. Ms Breen had not taught Decision Maths but had taught a statistics module.

5. These facts do concern relevant matters. However, there was, and still is (assuming all of the new evidence and corrections were accepted) no direct evidence of discrimination because of the Claimant's race or religion or harassment on those grounds. The evidence and submissions now provided by the Claimant would need to permit an inference of discrimination to be drawn. There is no realistic prospect of such a path being available. Further, even if inferences could be drawn against the Respondent based on the information with his application for reconsideration, such that section 136 of the Equality Act was engaged and there were facts from which the tribunal could decide, in the absence of any other explanation, that the Respondent had directly discriminated against or harassed the Claimant, there remains the problem for the Claimant's case that the evidence demonstrated why the Respondent asked the individuals it did to perform the mid-year work that became available, and why the full-year work was given to members of another department. The reasons had nothing to do with the Claimant's race or religion. The tribunal's original essential reasoning does not appear to be disturbed even accepting the relevant new or corrected evidence of the Claimant with his application for reconsideration. Accordingly, there is no reasonable prospect of the original decision being varied or revoked.

6. Further and separately, there is also no reasonable prospect of the decision being varied or revoked on grounds relating to the fairness of the original hearing. The Claimant had a fair opportunity to present relevant evidence before the hearing and during the hearing and to address the substance of his own case and that of the Respondent. No error of law is identified by the Claimant in his application for a reconsideration. The attempt to re-argue the case and to add new evidence is contrary to the public interest in the finality of litigation and disproportionate.

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Employment Judge Starr

05/02/2018