



# EMPLOYMENT TRIBUNALS

**Claimant**  
Ms. N. Ali-Beag

**Respondent**  
Her Majesty's Prison  
and Probation Service

v

## REFUSAL OF APPLICATION FOR RECONSIDERATION

[Rules 70-72 of Schedule 1 to the Employment Tribunals  
(Constitution and Rules of Procedure) Regulations 2013.]

1. By a judgment sent to the parties on 9 October 2019 the tribunal dismissed the complaints of race and religion and belief discrimination and also gave full reasons for its refusal of the claimant's application to amend on 4 September 2019.
2. By an email dated 23 October 2019 the claimant made an application in time for reconsideration, chiefly of the refusal of the application to amend and also about the findings of fact. An application for reconsideration is made under rule 71.
3. By rule 72, an employment judge shall consider any application made under rule 71. If the judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application shall be refused, and the tribunal shall inform the parties of the refusal.
4. I have considered the application under rule 72. The main part of the application asks for reconsideration of the refusal of the application to amend.
5. A tribunal has jurisdiction to determine a complaint of discrimination relating to part 5 of the Equality Act 2010 (section 120 EA 2010). The complaint is made on a claim form. It is the act of which complaint is made, and no other, which the tribunal must rule upon (*Chapman v Simon* [1994] IRLR 124 paragraphs 41 - 42).
6. Therefore, if a party wishes to add matters of complaint, so that the tribunal can rule on new matters, that party must seek permission to amend the claim form.
7. The claimant wished to add new matters to the claim form but no permission to amend had been given previously. Therefore, we heard that application before

we heard evidence and submissions or made a decision over new matters not in the claim form.

8. Having heard argument from both sides, we applied the principles in *Selkent Bus Company Ltd v Moore* [1996] IRLR 661. We took into account the debate about the list of issues as it was presented to us by the parties. Further particulars or lists of issues do not however amend a claim form.
9. We weighed up the matters for our discretion and decided that the balance was against the claimant.
10. The application for reconsideration amounts to an attempt to re-argue that exercise. There has to be finality in litigation.
11. The remainder of the application addresses findings of fact made by the tribunal. The tribunal has made its findings of fact on the balance of probability. There is no basis to re-open that or to allow further argument about it. There must be finality in litigation.
12. For those reasons there is no reasonable prospect of the original decision being varied or revoked.

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Employment Judge Heal

1 November 2019

Date: .....

18 November 2019

Sent to the parties on: .....

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For the Tribunal Office