



EMPLOYMENT TRIBUNALS

Claimant: Mr A Hadi Al Hassany

Respondent: (1) University Hospitals Bristol NHS Foundation Trust
(2) Dr Mark Callaway
(3) Dr Denize Atan
(4) Dr Catherine Guly
(5) Miss Rani Sebastian
(6) Mr Demitri Manasses

Before: Employment Judge Midgley in Chambers **Date:** 31 January 2020

RECONSIDERATION JUDGMENT

1. The Claimant's application by email dated 19 December 2019 for reconsideration of the Judgment of 9 December 2019 (sent to the parties on 18 December 2019) by which the Claimant's claims were dismissed upon their withdrawal by the Claimant is dismissed on the grounds that it is not necessary in the interests of justice to permit reconsideration.

REASONS

1. The interests of justice require the Tribunal to act in accordance with the Overriding Objective to deal with cases justly. The requirement to deal with cases justly requires the application of recognised principles including the finality of litigation, which is in the interests of both parties, and avoiding delay and saving expense.
2. The Tribunal has a broad discretion when determining whether it would be necessary in the interests of justice to permit an application for reconsideration, but that discretion must be exercised judicially, which requires the Tribunal to have regard both to the interests of the applicant and to the respondent to the application (Outasight VB Limited v Brown [2015] ICR 11).

3. The Claimant seeks reconsideration of the Judgment which dismissed his claims upon their withdrawal. The Claimant withdrew his claims on day five of a ten-day hearing. At the time that the Claimant withdrew his claims and consented to their dismissal he was represented by very experienced counsel.
4. It was not suggested to the Tribunal at the time of that withdrawal that the Claimant sought to reserve his right to issue further proceedings in respect of matters which were the subject of the claims which had been the focus of five days of Tribunal hearing. Rather, the wording that was proposed for the Judgment was expressed to be with the consent of both parties.
5. In consequence pursuant to Rule 52, the Claimant may not pursue a further claim against Respondent raising the same, or substantially the same, complaints as were raised in these proceedings unless he has reserved the right to pursue such further claims and the Tribunal is persuaded that there is a legitimate reason for doing so or that it is in the interests of justice not to issue a Judgment dismissing his claims.
6. The Claimant applies for the Tribunal to reconsider the Judgment, it would appear, seeking an outcome consistent with Rule 52(b), namely that the Tribunal would not issue a Judgment dismissing his claims on the grounds that it would not be in the interests of justice for the Claimant to be precluded from pursuing a further claim against respondent arising out of the same or substantially the same complaints.
7. The Claimant has not identified any coherent argument or basis to suggest that he was not competent to give instructions to his counsel to withdraw the claim, or to agree the wording of the Judgment of 5 December 2019. He has not provided any evidence to support such an argument.
8. For reasons which were not disclosed to the Tribunal, the Claimant elected to withdraw his claims. He now seeks to avoid the consequence of that withdrawal, with the likelihood that a further claim or claims might be brought in this jurisdiction or in another jurisdiction. That would lead inevitably to considerable delay, the avoidance of finality and the incurring of additional costs.
9. The Claimant has failed to identify any grounds on which the usual effect of Rule 52 should be avoided. The Claimant did not express at the time of the withdrawal any wish to reserve the right to bring such a further claim. Even if he had done so, and the Tribunal were to treat the application for reconsideration as such an expression, the Tribunal would need to be satisfied that 'there would be a legitimate reason for doing so' or that to issue such a judgment would not be in the interests of justice.
10. The Claimant has not identified in his application for reconsideration any legitimate reason why he should be permitted to reserve the right to bring such a further claim, or why it would not be in the interests of justice to issue a Judgment pursuant to Rule 52.
11. The Tribunal reminds itself of the requirements of the Overriding Objective, in particular the need for finality, the need to avoid delay and unnecessary cost. The pursuit of the Claimant's claims up to their withdrawal on 5 December 2019 occasioned a significant draw on the Respondent's resources and the Tribunal's resources, and, no doubt, the Claimant's own financial and emotional resources. Those claims did not, during the passage of the Claimant's evidence, appear to be meritorious.

Case No. Error! Reference source not found.

12. The inevitable consequence of not dismissing the claims upon their withdrawal, and/or permitting the Claimant to pursue further claims in relation to the same or substantially the same matters will necessarily be to avoid finality and to cause the Respondent, the Tribunal and the Claimant to incur further costs in respect of claims which, upon the conclusion of the Claimant's evidence, appeared to be on unmeritorious.
13. Consequently, it is not necessary in the interests of justice to reconsider the Judgment of 9 December 2019 and the Claimant's application for reconsideration is dismissed.

Employment Judge Midgley

Date : 3 February 2020