



EMPLOYMENT TRIBUNALS

Claimant: Mr S Chellappan
Mr P Subramanya

Respondent: ABM Facility Services Ltd

JUDGMENT

The claimant's application dated **19 December 2019** for reconsideration of the judgment sent to the parties on **6 December 2019** is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because:

Employment Judge Nicolle has considered the application for a reconsideration of the Judgement sent to the parties on 6 December 2019. Whilst the application for reconsideration was made under cover of an email dated 19 December 2019 it was not forwarded to Employment Judge Nicolle by the Tribunal staff until 3 February 2020. Employment Judge Nicolle has considered the request in accordance with the provisions set out in Rule 70 which provides that reconsideration is only appropriate where it is necessary in the interests of justice and under Rule 72 there is a reasonable prospect of the original decision being varied or revoked.

Reconsiderations are limited exceptions to the general rule that employment tribunal decisions should not be reopened and relitigated. It is not a method by which a disappointed party to proceedings can get a second bite of the cherry. Reconsideration is not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced which was available before.

A tribunal dealing with the question of reconsideration must seek to give effect to the overriding objective to deal with cases 'fairly and justly' — Rule 2. In considering the application regard needs to be given to not only the interests of the party seeking the reconsideration, but also to the interests of the other party to the

litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.

Employment Judge Nicolle does not consider that the various matters referred to in the application for reconsideration would in accordance with the interests of justice make it appropriate for there to be a detailed reconsideration of the Judgement. He makes this decision for the following reasons:

- matters referred to involve a failure by the Respondents' representative to ensure that what the Claimants consider to be relevant documents were included in the documentation disclosed and included in the trial bundle;
- matters relied on involve reference to documents included in the bundle, for example uniform records at pages 197 to 202 and 203 but which were not relied on during the course of the hearing or referred to in the witness statements;
- other matters involve the attempted retrospective addition of evidence which should properly have been adduced prior to the hearing;
- matters relied on are not in Employment Judge Nicolle's opinion germane to the decision but, for example, the allegation as to whether Mr Steel had breached the GDPR; and
- matters would not, in any event have had any realistic prospect of materially altering the decision reached given that it was based on the Tribunal's assessment of the totality of the evidence, and not one where even if reconsideration were to be given to the additional matters now sought to be relied on, or alternatively where an attempt is being made to place additional emphasis on them, that would have had any prospect of a change in the overall outcome.

Having considered the individual matters relied upon, but also the totality of these matters in the context of what was a 26-page Judgement Employment Judge Nicolle does not consider that these matters would be capable of having a material bearing on the decision as promulgated.

Further Employment Judge Nicolle does not consider that it would be consistent with the interests of justice, to include the interests of the Respondent, for there to be further consideration of the decision whether by inviting the Respondent to make written submissions in response to the application for reconsideration or alternatively by listing the matter for a further hearing before Employment Judge Nicolle and the members who heard the hearing with him between 5 and 8 November 2019 and in Chambers on 21 November 2019.

Employment Judge **Nicolle**

Date 4 February 2020

JUDGMENT SENT TO THE PARTIES ON

4 February 2020

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FOR THE TRIBUNAL OFFICE

