



EMPLOYMENT TRIBUNALS

Claimant

Ms M Mulumba

Respondents

AND

Partners Group (UK) Ltd (R1)

Partners Group (USA) Inc (R2)

Judgement

The Respondents' application dated 21 January 2020 for reconsideration of the Judgement sent to the parties on 10 January is refused.

Reasons

I have considered the application by the Respondent dated 21 January 2020 for a reconsideration of the Judgement sent to the parties on 14 January 2019. Whilst the application for reconsideration was made under cover of an email dated 19 December 2019 it was not forwarded to me by the Tribunal staff until 4 February 2020.

I have 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.

I do 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. I make this decision for the following reasons:

Adopting the same numbering as appears in Macfarlanes letter dated 21 January 2020 I comment as follows:

4. The parties are aware that the bundle for the OPH contained an agreed list of issues at pages 69 to 77. It was, however, only paragraph 2 which related specifically to the question of territorial jurisdiction and it is this matter which was addressed in my decision. I do not therefore consider it necessary for the decision to reference the detailed list of issues pertaining to the substantive claims of race, sex and disability discrimination, harassment, victimisation and whistleblowing detriments.

5.1 I consider that the question as to what constitute “background” matters has been addressed at paragraph 87 and I do not consider that this requires further elaboration or reconsideration.

5.2 to 5.4 and 6. These paragraphs represent observations on the Judgement, with which I concur, rather than grounds for reconsideration.

7 to 7.2. These paragraphs represent observations on the Judgement, rather than grounds for reconsideration.

8. I do not consider it necessary, or in accordance with the determination of the existence of territorial jurisdiction, for the Judgement to specify a date at which UK territorial jurisdiction was first attained. I consider this to be a wholly artificial exercise and is not one which would be a consistent with the principles enunciated in the relevant case law as set out in paragraphs 57 to 87 in the Judgement.

9 to 9.4 and 10. I consider the that this has been addressed in my response to 8 above. As already indicated the existence, or otherwise, of territorial jurisdiction is determined by a careful balancing exercise between those factors militating in favour of territorial jurisdiction against those which do not, and this reflects in part the claims being pursued, rather than an exercise seeking to reach a determination at any given date. This is particularly so in the context of claims involving multiple allegations of discrimination on account of various protected characteristics.

Having considered the individual matters relied upon, but also the totality of these matters in the context of what was a 21-page Judgement, I do not consider that they would be capable of having a material bearing on the decision as promulgated.

Further I do not consider that it would be consistent with the interests of justice, to include the interests of the Claimant, for there to be further consideration of the decision whether by inviting the Claimant to make written submissions in response to the application for reconsideration or alternatively by listing the matter for a further hearing.

Employment Judge Nicolle

Dated: **13 February 2020**

Sent to the parties on:

21/2/2020

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For the Tribunal Office