EMPLOYMENT TRIBUNALS

Claimant: Mrs D Awonaike-Salau

First Respondent: Health Education England North West

Second Respondent: Dr Marie Hanley

Third Respondent: Dr Peter Gibson

JUDGMENT ON RECONSIDERATION

In exercise of the power conferred by Rule 70 and 72 of the Rules of Procedure set out in Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the Employment Tribunal refuse the claimant's application for reconsideration made by way of email on 18 December 2019 as having no reasonable prospect of success.

REASONS

1. The claimant's email of 18 December 2019 requested a "review" of the Judgment made on 16 November 2019, which followed the costs hearing of 15 October 2019. The email had attached to it an undated document from the claimant's representative entitled "*Application for Review of Judgment on Cost Application*" which ran to ten pages, and a letter from the claimant dated 18 December 2019. Those documents were read by the Tribunal and were collectively treated as an application for reconsideration. It should also be recorded that the Judgment of 16 November was not sent to the parties until 5 December 2019 and therefore the application for reconsideration was submitted in time.

2. The letter from the claimant sets out her personal circumstances, summarises the basis of her claims, and gives some further explanation as to why the proceedings to which this application relates were brought. Paragraph 10 of the claimant's letter states that the Tribunal described the report entitled "feedback

on Dayo" as "constructive". The Tribunal did not make any finding to that effect but rather stated that the finding of Dr Hanley that the report was "constructive" was not unreasonable in the context of the full report (paragraph 26 of the Judgment). The report to which the Tribunal was referring was the one it was taken to by the claimant's representative at the hearing, a document which was taken from another bundle and attached to bundle 2 with page numbers 150A to 151A. The author of that document is not named upon it, but the Tribunal understood it to be Dr Gibson since that was the document to which it was drawn at the hearing, and the comments in it to the effect that the claimant was a "liability" were those which were said to have been incorrectly described as "constructive" by Dr Hanley in her email of 18 October 2017.

3. The "Application for Review of Judgment on Cost Application" submitted by the claimant's representative is a lengthy document which provides more clarity than that which was provided at the hearing, and sets out the reasons it is said that the proceedings were brought against Dr Hanley in September 2018 following disclosure of documents in June 2018. It then outlines facts pertaining to the various claims brought by the claimant, re-iterates some of the submissions made at the costs hearing, and makes additional submissions. There is a submission that Dr Hanley and Dr Gibson "*manufactured malicious supplementary evidence to prevent the claimant from successfully completing her training on time*" and it is said that evidence relating to this, among other documents, was only disclosed on 25th June 2018 following a subject access request.

4. The Tribunal made some efforts at the Hearing (paragraphs 24 and 25 of the Judgment refer) to try to identify with the claimant's representative those specific documents, from the four substantial bundles provided, that were said to have come to light during the subject access request which led the claimant to the view that there was fresh evidence which gave rise to the claim against Dr Hanley. The Tribunal was eventually referred to some specific documents, which are described at paragraphs 24, 25 and 27 of the Judgment. The Tribunal has still not, in the reconsideration application, been referred to any other specific page numbers to enable it to properly identify the documents alluded to in the application.

5. The essential findings in the Judgment are at paragraphs 30-33, in essence the claimant acted unreasonably in bringing the proceedings against Dr Hanley and the claim had no reasonable prospect of success. In respect of the additional submissions made in the application, in so far as they pertain to these findings, it is not explained why these were not properly put before the Tribunal at the hearing. A reconsideration is not simply an opportunity to reiterate or expand upon earlier submissions, or to provide clarity where a party has previously failed to do so at a hearing. It is not said that any new evidence has come to light since the costs hearing which might have altered the Tribunal's view.

6. In short, there is nothing in the correspondence from the claimant or her representative to persuade the Tribunal that there are grounds upon which to form a view that it might be in the interests of justice to vary the Judgment.

Nor does the Tribunal find that it would be proportionate or in furtherance of the overriding objective to convene a further hearing to re-open the arguments.

7. Having considered all circumstances, the Tribunal find that the application for reconsideration has no reasonable prospect of success under Rule 72(1).

8. There must be finality in litigation.

Employment Judge Humble

Date: 30th January 2020

JUDGMENT SENT TO THE PARTIES ON

31 March 2020

FOR THE TRIBUNAL OFFICE