



# EMPLOYMENT TRIBUNALS

**Claimant:** Dr J Gosalakkal  
**Respondent:** University of Leicester NHS Trust

Decided on the papers  
**On:** 21 May 2020  
**Before:** Employment Judge Adkinson sitting alone

## RECONSIDERATION JUDGMENT

1. The claimant's application of 19 May 2020 for a reconsideration of the judgment dated 4 March 2020 (and sent to the parties on 23 March 2020) is dismissed because it is out of time.

## REASONS

2. On 4 March 2020 I heard and finally decided an application for costs that the respondent had made against the claimant in respect of his claim. My task was to decide the amount. The Tribunal had already ordered that he should in principle pay something.
3. I have given the background to the case in the written reasons to my judgment. Nothing in the reconsideration application suggests that what I said there was incorrect. This is a short summary to provide context to this reconsideration.
4. There was final hearing in 2014. The claimant lost. I understand appeals against that decision were dismissed. I also understand that there have been recent applications for reconsideration. I was not part of the Tribunal panel that heard the final hearing and have no involvement in those reconsiderations. I have taken no account of them.
5. The Employment Tribunal (Employment Judge Heap) had decided on 13 May 2015 that he should pay some of the costs. Simler J dismissed an appeal against that order.
6. The Tribunal at a hearing on 11 April 2017 (Employment Judge Heap) had assessed how much he should pay.
7. The claimant appealed against that decision to the Employment Appeal Tribunal (EAT). It was heard by a panel consisting of His Honour Judge

Richardson, sitting with 2 lay members. In short on 4 July 2019, the EAT remitted back to the Employment Tribunal the question of how much the claimant should pay. The decision that he should in principle pay something was never remitted. I could not alter that decision.

8. The remitted hearing was listed before me.
9. The claimant represented himself. Mr A McGee, Counsel, represented the respondent.
10. I made the following order:

“After considering the representations of both parties, the Tribunal orders that the claimant must pay to the respondent the following sums:  
“£47,088.04 as the assessed costs of the case, and  
“£5,531.50 as the summarily assessed costs of this hearing.
11. I gave the reasons for doing so at the time but provided written reasons because the parties requested them at the hearing. The Tribunal sent the judgment with the written reasons to the parties on the 23 March 2020.
12. The parties informed me at the hearing that there was an application in the County Court relating to a charging order that the respondent had over a property owned by the claimant. They told me that the County Court’s proceedings had been stayed pending the hearing on 4 March 2020. I have not seen the papers. I of course am not involved in any County Court proceedings and do not have any jurisdiction in respect of them. I know nothing of the state or outcome of any proceedings in the County Court beyond what the parties told me at the hearing on 4 March 2020.
13. In considering the application for reconsideration I have considered:
  - 13.1. The Tribunal’s file,
  - 13.2. In particular
    - 13.2.1. my order and written reasons arising from the hearing of 4 March 2020, and
    - 13.2.2. the EAT’s judgment which resulted in the case being remitted back to the Employment Tribunal, and
  - 13.3. The claimant’s email of 19 May 2020 (i.e. the application).

**Is it an application for a reconsideration?**

14. I note that the application is an email and is sent to a number of people, such as the legal representatives for the respondent, the EAT’s associates, the County Court at Leicester (presumably that is where the County Court’s hearing and case management took place, but I do not know that and have seen nothing to confirm one way or the other). I note that the email specifically references Regional Employment Judge Swann.
15. The learned Regional Employment Judge has referred it to me. Under **Tribunal rule 72(3)** if it is a request for reconsideration, it had to be referred to me because I made the original Employment Tribunal decision referred to in the email.

16. Because it says “I request you to reconsider...” I am satisfied that it is appropriate to treat this as an application for reconsideration.

**Whether the application is out of time and if so whether time should be extended?**

17. **Tribunal rule 71** says that  
“...[A]n application for reconsideration... shall be presented in writing... within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later).”
18. **Tribunal rule 5** allows the Tribunal either on its own initiative or on application to extend time even after expiry of that time.
19. I have read the application carefully. However, it does not explain or provide any information that might indicate why the application was not made within 14 days of the Tribunal sending the judgment and written reasons to the parties. For example, there is no suggestion that there were delays in receipt, illness or any other incapacity or difficulty that prevented the claimant from making his application.
20. I note the application does not explicitly request me to extend time but I can do anyway. However, in order for me to do I believe there must be some evidence of some circumstances that would justify me exercising my discretion. There is none.
21. Based on what I have available to me, I conclude that I did extend time I would not be furthering the overriding objective in **Tribunal rule 2** because to do so
- 21.1. would be disproportionate to the importance and complexity of the issues,
  - 21.2. would increase delay in treating this case as resolved given the Tribunal has already considered the issues and that the Claimant had a right to appeal to the EAT, and
  - 21.3. would put the respondent to increased expense dealing with the application.
22. That is sufficient to dispose of the application. But I have considered the substance in any case.

**Whether there is any reasonable prospect of revocation of my original decision?**

23. **Tribunal rule 72** requires me to dismiss an application for a reconsideration if I consider there is no reasonable prospect of the decision resulting from the hearing on 4 March 2020 being varied or revoked.
24. In my judgment, there is no there is no reasonable prospect of the decision resulting from the hearing on 4 March 2020 being varied or revoked.
25. I have considered the application carefully. It seems to me that there is in it nothing that appears to challenge the judgment I made or my reasons for it. In fact, it appears the challenge is to the decision of the County Court. I have no jurisdiction in relation to those proceedings. If the claimant wishes to challenge the County Court’s decision he must he must challenge it in a

way permitted by that Court's procedural rules. As he says in paragraph 3 of his application, he appears to acknowledge that an appeal against that decision is the proper route. Whatever, he cannot use the Employment Tribunal's process simply as an alternative to following the County Court's procedural rules.

26. I now consider the numbered paragraphs.
27. I note in paragraph 1 of the application about the EAT's decision being "diluted and reversed" and a reference to their counsel Mr Appleyard managing to "get the judgment reinstated at £81,000" adding various interest and costs. I note in paragraph 2 a reference to "he" (whom I read as a reference to Mr Appleyard) getting the order of Employment Judge Heap reinstated.
28. As to these paragraphs, I infer these relate to proceedings before the County Court, though whether they date after or before the hearing of 4 March 2020 I do not know. I have come to that conclusion because of what the claimant says and that there is nothing on the Tribunal file that matches the description he has given of a judgment for £81,000 adding various interest and costs. Also, I have noted that Mr Appleyard never appeared as an advocate before.
29. I cannot comment on the decisions of the County Court. If the claimant has a challenge against the decision of the County Court, he must challenge it in a way permitted by that Court's procedural rules.
30. In paragraph 3 he asks if Judge Richardson and Judge Adkinson could be clear if they are allowing the costs and interests prior to March 4 2019.
31. I infer that by Judge Richardson, the claimant means His Honour Judge Richardson of the EAT. That is not a matter I can address.
32. As for my judgment, I have set out my judgment at paragraph 10 above, which is a direct quote from the original judgment. I believe it is clear as to what I ordered. I accept that I made no reference to interest either in the judgment or reasons. Neither party raised the question of interest.
33. However, I am aware that **County Courts Act 1984 section 74** and **County Court (Interest on Judgment Debts) Order 1991** provide for interest on judgments in the County Court. I am also aware that **Employment Tribunals Act 1996 section 15(1)** provides that  
"Any sum payable in pursuance of a decision of an employment tribunal in England and Wales which has been registered in accordance with employment tribunal procedure regulations shall be recoverable under section 85 of the County Courts Act 1984 or otherwise as if it were payable under an order of the county court"
34. Enforcement of orders can only be undertaken in the County Court. It is my understanding from reading the above that it is a matter therefore for the County Court to determine matters of interest and recoverability of other sums due within cases or enforcement proceedings before it. In particular, as I understand the law, it is therefore a question for the County Court to determine whether as a matter of law the respondent can seek interest on orders of this Tribunal that it is enforcing in that Court and if so, what it can

and should do about such a claim. I cannot comment on the decisions of the County Court in any regard. If the claimant has a challenge against the decision of the County Court, he must challenge it in a way permitted by that Court's procedural rules.

- 35. In paragraph 4 the claimant asks me to clarify if the respondent has a right to claim the interests and costs on a fresh assessment for previous "charges" as the county court has been led to believe. I cannot give legal advice. I have set out my general understanding of the law on interest above. I cannot comment on the decisions of the County Court. If the claimant has a challenge against the decision of the County Court, he must challenge it in a way permitted by that Court's procedural rules.
- 36. I have noted paragraphs 5 and 6 but I cannot sensibly respond to them.
- 37. Therefore there is nothing that suggests that there is a reasonable prospect of the claimant persuading me to vary or set aside my original order. If the application were not too late, then the application would have to be dismissed for this reason instead.

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Employment Judge Adkinson

Date: 21 May 2020

JUDGMENT SENT TO THE PARTIES ON

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FOR THE TRIBUNAL OFFICE

**Notes**

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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