EMPLOYMENT TRIBUNALS

Claimant: **Dr A. Ahari**

Respondent: **University College London Hospitals NHS Trust**

JUDGMENT

The claimant's application of 6 June 2020 for reconsideration of the judgment sent to the parties on 16 April 2019 is refused under rule 72 of the Employment Tribunals Rules of Procedure 2013.

REASONS

1. On 6 June 2020 the claimant wrote asking for the judgment to be reconsidered. He said that further documents would be posted in the next 3-4 days. I would have waited for these but I can see from earlier correspondence about the decision he asks to be reconsidered that he has said the same in these letters too, so I have worked from material on the file that he has already sent in the 13 months since the decision was sent to him.

2. Under the Employment Tribunal Rules of Procedure 2013 a request for reconsideration may be made within 14 days of the judgment being sent to the parties. By rule 70 a Tribunal "may reconsider any judgment where it is necessary in the interest of justice to do so", and upon reconsideration the decision may be confirmed varied or revoked.

3. Rule 72 provides that an Employment Judge should consider the request to reconsider, and if the judge considers there is no reasonable prospect of the decision being varied or revoked, the application shall be refused. Otherwise it is to be decided, with or without a hearing, by the Tribunal that heard it.

4. Under the 2004 rules prescribed grounds were set out, plus a generic "interests of justice" provision, which was to be construed as being of the same type as the other grounds, which were that a party did not receive notice of the hearing, or the decision was made in the absence of a party, or that new evidence had become available since the hearing provided that its existence could not have been reasonably known of or foreseen at the time. The Employment Appeal Tribunal confirmed in Outasight VB Ltd v Brown UKEAT/0253/14/LA that the 2013 rules did not broaden the scope of the grounds for reconsideration (formerly called a review).

5. There was a preliminary hearing on 1 April 2019 at which all the claims brought under the Equality Act were struck out. Victimisation claims were dismissed as having no reasonable prospect of success. Other claims were struck out because they were out of time. I do not repeat here the facts or the reasons for those decisions, or the reasons for rejecting an application to reconsider the judgment. They are all available to read on the public register of decisions at https://www.gov.uk/employment-tribunal-decisions, and have been since May 2019.

6. The current application to reconsider is 44 pages long. It repeats arguments made earlier that the response was out of time, the bundle incomplete, that "they" conspired to keep documents away from the tribunal, and that they "hired" the witness who gave evidence about searches for relevant witnesses; the witness is said to have lied, though it is not shown how or about what. There is repetition of the history, and an argument that the discretion to allow a claim out of time should have been exercised because that would have been just and equitable. It is said these errors "amounted to a judicial bias". There is no other information about the alleged bias. There is a new suggestion that the hearing should have continued the next day.

7. This is the second application to reconsider. There is no reference to the rule 72 refusal of the first application which was sent to the parties on 9 May 2019.

8. There is no explanation why the application is being sent now, 13 months after both the reasons and the first refusal decision were sent to the parties.

9. There is no reference to correspondence the claimant has had about his case in September and November 2019 and February 2020 with the acting Regional Employment Judge or the President of Tribunals about reconsideration and the recording of the hearing that he made without permission.

10. This application for reconsideration has no reasonable prospect of success, because:

10.1 it is over year late. The rules about reconsideration are clear, and even if the claimant did not know them before, he has known them since 9 May 2019 when he was sent a decision in which they are

clearly set out. He has not given any reason why it is late, so there is no ground on which to find an extension would be in the interests of justice.

10.2 there is no new material relevant to the decision.

10.3 There is now a complaint the hearing was rushed. This is not something the claimant did not know about in April or May 2019. It is also not accepted. The timing is recited in the decision. In the event it lasted from 2 to 7.15, over 5 hours. That is a full hearing day. It started at 2, not 10, at the claimant's request. It could not have gone over to the next day, as both judge and respondent's counsel will have had other commitments. Going part-heard to a later day would have required the claimant, apparently impecunious, making a second journey from Scotland to London. The hearing was prolonged, at considerable inconvenience to counsel for the respondent, to enable the claimant to be fully heard.

10.4 the claimant repeats complaints about omissions from the bundle. The claimant had all the documents in his possession, and he had his laptop. He could have produced missing documents, or asked for additional material to be read. It is not shown that relevant material was not before the tribunal.

10.5 the claimant repeats assertions that the witness lied. It is not shown why the tribunal's view of the evidence it heard should be reconsidered in the light of this assertion, unsupported by reference to new material.

*11. T*here is a complaint that the claimant found the attitude of a member of tribunal staff was racist. This is because an email sent to him on 3 July 2019 was addressed to him as Abdorezak Ahari, when his name is Abdolreza Ahari. A complaint about staff must be handled by HMCTS, not the judiciary. I only comment here: (1) it has nothing to do with the decisions of April and May 2019 that he seeks to have reconsidered, and (2) the text of that very short email discloses another spelling mistake, the clerk having written "all the correspondent" when from context this should read "all the correspondence".

12. Whether because it is late, whether on the merits, the application has no reasonable prospect of success and it is refused.

Employment Judge GOODMAN

Date 8 June 2020
JUDGMENT SENT TO THE PARTIES ON

08/06/2020...

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FOR THE TRIBUNAL OFFICE - Olu