



EMPLOYMENT TRIBUNALS

Claimant: Mr N A Ashraf
Respondent: SGL Co-Packing Ltd

JUDGMENT

The claimant's application dated 31 March 2021 for reconsideration of the judgment sent to the parties on 23 March 2021 is refused.

REASONS

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

1. The application of 31 March 2021 does not provide any new information which would result in the decision being reconsidered.
2. The decision to dismiss the claimant was made on 16 May 2019. The matters referred to in the application to reconsider which occurred in July 2019, post-date that decision and any of the alleged acts of direct discrimination. They do not appear to be material to the issues which were determined. In any event, the claimant had the opportunity to raise those issues at the Tribunal hearing, had he wished to do so.
3. The allegation referred to in the application regarding Mr Howarth, was a central issue during the hearing and was determined in the Judgment issued. It is recorded in the Judgment that Mr Howarth's race differed from the claimant's. The claimant's own definition of his race is also recorded in the Judgment at paragraph 4. Whether or not the difference in race between the claimant and his comparators was considered based upon a difference between himself and his comparators of colour, rather than a difference between his defined ethnicity and that of his comparators, would have made no material difference to the outcome. In any event, the decision was reached based upon the claimant's own definition and contention.

4. The issues referred to under the heading “unfair dismissal” in the application for reconsideration appear to reflect exactly the issues that the claimant raised during the hearing or, if they do not, those that he was able to raise.
5. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 70). The Court of Appeal in **Ministry of Justice v Burton [2016] EWCA Civ 714** has emphasised the importance of finality, which militates against the discretion being exercised too readily.
6. Rule 72(1) of the 2013 Rules of Procedure empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.
7. Preliminary consideration under rule 72(1) must be conducted in accordance with the overriding objective which appears in rule 2, namely to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues, and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication.

Employment Judge Phil Allen

6 April 2021

JUDGMENT SENT TO THE PARTIES ON

9 April 2021

FOR THE TRIBUNAL OFFICE