Case Numbers: 1501860/2012
1501097/2013
3400176/2014

EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Dr C Fanutti	**v**	University of East Anglia

Considered at: Cambridge (on the papers) **On**: 5 October 2020

By: Regional Employment Judge Foxwell

RECONSIDERATION JUDGMENT

The Claimant's application dated 11 May 2020 for reconsideration of the judgment sent to the parties on 27 April 2020 is refused as there is no prospect of the original decision being varied or revoked and reconsideration is not necessary in the interests of justice.

REASONS

Apology for delay

1. I begin these reasons with an apology to the parties for the long delay in dealing with the Claimant's application for reconsideration. There was an administrative delay in linking her application of 11 May 2020 and her chasing email of 19 June 2020 to the file (there may be other chasing emails still not linked to the file of which I am unaware). The result is that this application was not referred to me until 1 October 2020 and I was unaware of it before then. I have endeavoured to deal with it promptly on learning of it.

Timeliness of the application

2. I accept that this application was presented within the time limit in rule 71 of the Tribunal Rules of Procedure 2013 having regard to rule 4(2) but if there were any doubt about this I would have extended time for it as it was evidently made promptly.

Substantive decision on the application

3. Having read the Claimant's application and re-read the liability and remedy decisions I find that there is no prospect of the original decision being varied or revoked so that it is in the interests of justice to reconsider the remedy decision. Accordingly, the Claimant's application is refused. In my judgment it is an impermissible attempt to reargue issues dealt with in the liability and remedy hearings and to grant it would be contrary to the principle of finality in litigation.

4. I have noted the Claimant's assertion that the remedy decision contains the wrong presentation dates for case numbers 1501860/2012 and 3400176/2014 at paragraphs 2 and 3. While this seems to be correct having regard to paragraph 2 of the liability judgment, these dates have no bearing on the substantive findings of the Tribunal: the Claimant has not identified any specific finding which would have been different because of these misreported dates.

5. The Claimant asserts that insufficient weight has been attached to 'health and safety issues' and refers to the impact of her state of health. This is simply an attempt to reargue the case. We considered her submissions on this (see paragraphs 93, 103 & 104 of the remedy decision where we refer to a lack of medical evidence, for example).

6. The Claimant asserts that re-engagement was insufficiently explored. Re-engagement is dealt with expressly in paragraph 1 of the Remedy Judgment and is considered alongside reinstatement in paragraphs 77 to 96 of the Reasons (see the second sentence in paragraph 79 and paragraphs 84 and 85 in particular).

7. Neither party referred to the case of *Zebrowski v Concentric Birmingham Limited (unreported) UKEAT/0245/16* at the remedy hearing. I have considered it but the error identified there does not arise in this case in my judgment. Our finding is that a fair procedure would have taken much longer than the actual one and, had it taken place, there would have been a 50% chance of dismissal. These are unambiguous findings which do not conflate the pre- and post-putative procedurally fair dismissal conclusions.

8. Claims of holiday and notice pay are dealt with expressly at paragraph 4 of the Remedy Judgment and 5 of the Remedy Reasons. These claims were withdrawn at the liability stage; the reference to paragraph 13 of the Liability Reasons is wrong, it should say paragraph 11 where Judge Moore sets out a verbatim record of the agreed issues in the third claim concerning dismissal. Notably, neither party formulated a case for unpaid holiday pay or notice pay subsequently.

9. Finally, even were there merit in any of the points raised by the Claimant (which is not my finding), it would be disproportionate to reopen this litigation when the difference between the compensatory award made, £48,860, and the relevant statutory cap, £52,261.74, is small compared with the costs, distress and inconvenience the parties have and will continue to incur in litigating this case. It would also be disproportionate having regard to the share of Tribunal resources

these parties have already used and the impact a further hearing will have on other tribunal users.

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Regional Employment Judge Foxwell

Date: …5 October 2020…….

Sent to the parties on: .....

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For the Tribunal Office