



EMPLOYMENT TRIBUNALS

Claimant

Ms SR Idu

Respondent

The Ipswich Hospitals NHS Trust

v

Before: Employment Judge Laidler (On the papers)

On: 23 December 2021

JUDGMENT ON RECONSIDERATION APPLICATION

The claimant's application of 10 December 2021 for reconsideration of the Judgment and Reasons following a hearing in May 2017 is refused.

REASONS

1. The full merits hearing in this matter took place between the 15th and 26th May 2017. A Reserved Judgment dated 18 August **2017** rejected all the claimant's claims. The Employment Judge who conducted that hearing and the two lay members have since retired and this Judge has been appointed by the Regional Employment Judge to deal with the claimant's application.
2. Although in the heading to the claimant's email she refers to new evidence exposed by the Guardian Newspaper which 'affect the application for reconsideration' there is no other reference to reconsideration and the provisions of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 in the body of the application.

Relevant Rules

3. The relevant provisions of the Rules are as follows:-

“RECONSIDERATION OF JUDGMENTS

Principles

- 70.** A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision (“the original decision”) may be confirmed, varied or revoked. If it is revoked it may be taken again.

Application

- 71.** Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) 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) and shall set out why reconsideration of the original decision is necessary.

Process

- 72.—(1)** An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge's provisional views on the application.
- (2)** If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.
- (3)** Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

Reconsideration by the Tribunal on its own initiative

73. Where the Tribunal proposes to reconsider a decision on its own initiative, it shall inform the parties of the reasons why the decision is being reconsidered and the decision shall be reconsidered in accordance with rule 72(2) (as if an application had been made and not refused).”

4. This application is made many years after the decision was sent to the parties and certainly not within 14 days and should be rejected on that basis alone.
5. The overriding consideration in the Rules is whether it is in the interests of justice for the decision to be varied or revoked. It clearly is not.
6. The claimant seeks to rely upon an article in the Guardian Newspaper of 9 December 2021 reporting on the independent report into events at the West Suffolk Hospital in Bury St Edmunds which occurred in 2017 and 2018. It refers to the behaviour of the then Chief Executive and Jan Bloomfield who was then Director of Workforce and Communications.
7. The claimant produces a copy of a letter dated 12 July 2016 setting out the outcome of her appeal hearing, which confirmed that Jan Bloomfield was on the panel that heard her appeal both against the grievance outcome and the disciplinary outcome. Mrs Bloomfield was one of four members of the panel.
8. The claimant in her application of 10 December 2021 relies on the Guardian report as “new evidence” and states that it conflicts with paragraph 13 (sub-paragraph 14) of the tribunal’s Conclusions in her case in which it was stated that having Mrs Bloomfield on the panel as a fourth member of it rather than having a panel of only three was an ‘advantage’ to the claimant. The claimant now states it was clearly not to her advantage in view of what has been said about Mrs Bloomfield in a completely unrelated matter.
9. The outcome of the independent review into the handling of whistleblowing at the West Suffolk NHS Foundation Trust is of no relevance to the matters that were before the tribunal in May 2017 in relation to the claimant’s case. In any event the involvement of Mrs Bloomfield was only in relation to the appeal panel of which she was one of four. The panel was unanimous in its decision to reject the claimant’s appeals.
10. The application also ignores the fact that the tribunal found against the claimant in all the claims brought by her and in particular that ‘the Claimant was not unfairly dismissed by the Respondent, either for making protected disclosures or at all’ and that the ‘Respondent did not unlawfully subject the Claimant to any detriment on the ground that she had made protected disclosures.’ The newspaper report that the claimant now seeks to rely upon is not ‘new evidence’ which will in anyway lead to the original decision being set aside or varied.

11. The application by the claimant is considerably out of time and it is not in the interests of justice to reconsider the Reserved Judgment which was sent to the parties in 2017. The application is refused.

Employment Judge Laidler

Date: 30 December 2021

Sent to the parties on:

13 January 2022

For the Tribunal Office