



EMPLOYMENT TRIBUNALS

Claimant: Anthony Bourne
Respondent: Siemens PLC
Before: Employment Judge Mr. M. Salter

JUDGMENT

The Claimant's application for reconsideration of my judgment is refused.

REASONS

Introduction

1. By Rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 the Employment Tribunal may, either on its own initiative or on the application of a party, reconsider a Judgment where it is necessary in the interests of justice to do so. On reconsideration, the Judgment may be confirmed, varied or revoked.
2. An application for reconsideration shall be presented in writing (and copied to all of the other parties) within 14 days of the date upon which the written record (in this case the written record being the Judgment promulgated on 25th October 2019) was sent to the parties. I shall now refer to this as '*the Judgment.*'
3. On 17th November 2019 the claimant sent an email to the Employment Tribunal in which he applied for a reconsideration of the Judgment. Plainly, this was presented within the relevant time limit provided for in the Rules. The application was not sent to me until the 3rd March 2022.
4. Under Rule 70, a Judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration of a Judgment is appropriate in the circumstances. The discretion must be exercised judicially. This means having regard not only to the interests of the party seeking the reconsideration but also the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
5. The procedure upon a reconsideration application is for the Employment Judge that heard the case to consider the application and determine if there are

reasonable prospects of the Judgment being varied or revoked. Essentially, this is a reviewing function in which the Employment Judge must consider whether there is a reasonable prospect of reconsideration in the interests of justice. There must be some basis for reconsideration. It is insufficient for an applicant to apply simply because he or she disagrees with the decision.

6. If the Employment Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the original decision shall be reconsidered at a subsequent reconsideration hearing. The Employment Judge's role therefore upon the considering of the application upon the papers initially is to operate as a filter to determine whether there is a reasonable prospect of the Judgment being varied or revoked were the matter to be the subject of reconsideration hearing
7. The Employment Appeal Tribunal has given guidance as to the nature of a request for reconsideration:
 - (a) Reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to re-argue matters in a different way or adopting points previously omitted.
 - (b) There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule
 - (c) It is not a means by which to have a second bite at the cherry, or is it intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered.
 - (d) Tribunals have a wide discretion whether or not to order reconsideration. Where a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.
8. I am satisfied that I applied the correct law in this matter.
9. The parties were told during the hearing that I would only have reference to documents to which my attention was taken and the Claimant is seeking to re-litigate matters that were covered in the tribunal and introduce more evidence on various issues.
10. I am not satisfied that it is in the interests of justice to reconsider the Judgment.

Employment Judge Salter

Friday, 25th March 2022

Date

Case Number: 3321877/2019

Sent to the parties on: 05 April 2022

For the Tribunal Office