



EMPLOYMENT TRIBUNALS

Claimant: Mrs M O'Hagan

Respondent: The University for the Creative Arts

JUDGMENT

The claimant's application dated 30 March 2022 for reconsideration of the judgment sent to the parties on 17 March 2022 is refused.

REASONS

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

1. The reasons put forward by the claimant's as the basis for her application that it is necessary in the interests of justice that the judgement declared orally with reasons on 11 November 2020 one and provided in writing as above may be summarised as follows:
 - a. There was insufficient time available to hear the claim;
 - b. There is a contrast between the length of time taken by the Tribunal to reach its conclusion and the length of time taken to provide written reasons;
 - c. The reasons are said to fail to demonstrate that all of the evidence was considered;
 - d. The tribunal has preferred the respondent's evidence despite the claimant providing documentary evidence to the contrary;
 - e. In taking a fragmentary approach the tribunal failed to consider the overall picture;
 - f. Mr Mitchell, counsel for the respondent was permitted to advance a new argument;

7. The claimant makes particular reference to an argument raised by the respondent to the effect that she did not wish to return to work and as she put it in her application for reconsideration “was making claims to improve her bartering position”. As we understand it this is a reference to paragraph 45 to 51 of the RWS where the respondent argued that the communication of the 16 October 2018 (page 374 of the hearing bundle) should not be regarded as a protected disclosure because it was sent in an attempt to extract an improved financial offer from the respondent rather than made in the public interest.
8. Our finding on this was first, even if this were part of her reason that would not preclude the disclosure made in the public interest (corrected reasons para.117) but secondly that the claimant’s case as articulated in the agreed list of issues solely concerned matters personal to her. In other words, we did not make a finding in relation to this argument because it would not have been determinative of the issue. It is patent that refusing to allow the respondent to argue the point would not have made any difference to the outcome.
9. For the purposes of this application, it is clear that this was an argument raised by the respondent to counter the claimant’s case that that particular communication was made by her in the reasonable belief that it was in the public interest to do so. The respondent has consistently denied that that communication was a protected disclosure and it was not an impermissible extension of that denial to cross-examine the claimant on particular phrases in the communication as the basis of the suggestion that she had a specific alternative motivation than public interest.
10. The tribunal made its decision entirely on the basis of the evidence admitted at the hearing and the arguments put forward by the parties or their representatives. The claimant puts forward a bald assertion that the Tribunal allowed itself to be persuaded by the status of counsel, the respondent’s witnesses or the respondent’s management but does not go so far as to allege apparent bias nor to put forward any instances from the hearing or details from the reasons which she suggests would lead the reasonable and informed observer to think that there was a real risk of bias. There is therefore no reasonable ground for thinking that the matters she has put forward in her application for reconsideration would cause this judgement to be varied or revoked on such a ground.

Employment Judge George

Date 27 June 2022

JUDGMENT SENT TO THE PARTIES ON

.....29 June 2022.....

.....GDJ.....
FOR THE TRIBUNAL OFFICE