



## EMPLOYMENT TRIBUNALS

**Claimant:** Mrs P Omonkhegbe

**Respondent:** Transport for London

### DECISION UPON APPLICATION FOR RECONSIDERATION

1. The application for re-consideration has no reasonable prospect of success and is refused pursuant to rule 71 (1).

### REASONS

1. By an email dated 4 August 2022 the Claimant made an application for reconsideration. She raised a number of topics.
2. *Factual findings:* The tribunal considered all the evidence carefully before reaching its findings of fact.
3. *Approach to application to amend:* the tribunal considered the application to amend very carefully and balanced the relevant factors. That included the potential prejudice to the Claimant in refusing the application. In her reconsideration application the Claimant suggests the tribunal should have adopted the following approach: “*However, time could have been given after the attend segment of the trial for both sides to make preparatory steps and provide written submissions. This would allow sufficient balance of prejudices to be addressed towards both parties*”. That approach would have been unworkable and would not have done justice to the case. *Further evidence* beyond that which the Respondent had prepared was required in order to deal with the matters that the Claimant sought to adduce by way of amendment. The proposed claim to be added by amendment was such that it could not be dealt with simply by hearing the existing evidence that had been prepared and then allowing the parties to “*make preparatory steps*” and providing written submissions.
4. *Harassment:* the tribunal took into account, as it was required to, how the Claimant perceived the Respondent’s conduct. However, the legal tests for harassment are broader than that and upon applying the relevant tests the outcome is as set out in the tribunal’s judgment and reasons.

5. *Disability*: the Claimant says “*The approach here is that there was unfavourable treatment, but the court did not expressly conclude what that unfavourable treatment was as a result of.*” That is not right. Where the tribunal found unfavourable treatment it also found the reason for it. The tribunal was well aware that it could draw inferences of discrimination (see legal directions) but in the event having considered all of the evidence and stepped back from it before reaching conclusions, it saw no proper basis for doing so.
  
6. *Race*: the Claimant says “*This approach also removes the bias against minorities. This is because I didn’t use language that my white colleague used makes it less alarming. The context of that email remains fundamentally the same*”. It is hard to follow what she means and she has not stated what email she is referring to. I cannot discern in what she says any basis for reconsidering the tribunal’s decision in relation to the complaints of race discrimination/harassment or any matter.

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Employment Judge Dyal

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Date 01.09.2022

SENT TO THE PARTIES ON: