



EMPLOYMENT TRIBUNALS

Claimant: Mr A Pollard Wilson

Respondent: Liverpool University Hospitals NHS Foundation Trust

UPON APPLICATION made by letter dated 14 October 2022 by the claimant to reconsider the judgment dated **2 September 2022 (and following the provision of written reasons on 6 October 2022)** under rule 71 of the Employment Tribunals Rules of Procedure 2013, and without a hearing,

JUDGMENT

- (1) The judgment is confirmed.
- (2) The Tribunal clearly set out in the judgment its reasons for finding that he presented his claim out of time.
- (3) The Tribunal made findings of fact based upon the evidence before it.
- (4) There is no reasonable prospect of the judgment being varied or revoked. Accordingly, the application is refused.

REASONS

1. Paragraph 26 of the judgment found that medical redeployment was initiated on 14 January 2020 and at paragraphs 49 and 51, the Tribunal found that the potential termination date arising from the redeployment was extended with a termination date of 14 August 2020 being the final extended date.
2. Paragraphs 55, 56 and 57 and confirmed the date of termination as being 14 August 2020 but identified a procedural defect which arose from a final meeting not having taken place before termination.
3. Section 123(1) Employment Rights Act 1996 provides the basis for applying the principles arising from *Polkey v AE Dayton Services Limited* [1987] IRLR 50, which permits a Tribunal to reflect upon the chance of the dismissal

being fair, had a proper procedure been followed.

4. The Tribunal applied the principles arising from section 98 Employment Rights Act 1996 and considered the particular circumstances arising from this case when determining the question of fairness.
5. The decision made in relation to the application of Polkey, properly reflected the Tribunal's finding that the claimant would have been dismissed fairly after the specified further period of employment which would have allowed a fair procedure to have been completed.

Employment Judge Johnson
Date: 8 December 2022

JUDGMENT SENT TO THE PARTIES ON

9 December 2022

FOR THE TRIBUNAL OFFICE