



EMPLOYMENT TRIBUNALS

BETWEEN

Claimant

AND

Respondents

Ms Mayoma Ekeruche

National Grid

Heard at: London Central Employment Tribunal

On: 4 November 2022

Before: Employment Judge Adkin
Mr S. Soskin
Ms C. Brayson

Representations

For the Claimant: in person
For the Respondent: Mr M Salter, Counsel

REASONS

Background

1. By a decision dated 14 September 2022, following a hearing in June-July 2022 the Tribunal found in the Claimant's favour in her claims of unfair dismissal and one allegation of victimisation. All other claims were dismissed.
2. On 28 September 2022 the Claimant made an application for reconsideration.
3. At the remedy hearing on 4 November 2022 Employment Judge Adkin refused the application to reconsider the decision on liability pursuant to rule 72(1) of the Employment Tribunal (Constitution & Rules of Procedure) Regulations 2013, Schedule 1 ("the Rules"), but indicated that corrections could be made to the chronology in the findings of fact.
4. At the remedy hearing the Tribunal decided remedy insofar as the Claimant was seeking reinstatement or re-engagement. The Tribunal declined to order reinstatement or re-engaged and the reasons for that decision were provided

in writing on 17 November 2022. Other matters relating to remedy were adjourned given the Claimant's pending appeal to the Employment Appeal Tribunal.

5. By an email dated 7 November 2022, the Claimant requested written reasons for the refusal to reconsider the decision on liability.
6. By an email dated 22 November 2022 the Respondent provided its comments on the Claimant's application to reconsider.

Application to reconsider

7. The process under rule 72(1) requires initial consideration by an Employment Judge, not the full panel that made a judgment. It follows that these written reasons are mine alone rather than the full panel, notwithstanding that the non-legal tribunal member's names appear above.
8. The test to be applied by the Judge at this stage under rule 72(2) is whether there is no reasonable prospect of the original decision being varied or revoked. Under rule 70 a judgment may be reconsidered where it is necessary in the interests of justice to do so.
9. In summary the Claimant's application dated 28 September 2022 is an attempt to reargue the case. She is trying to introduce new matters, such as a "concurrent personal issue" to persuade the Tribunal to extend time for matters out of time. The Claimant is also seeking to correct what she contends are factual inaccuracies in the written reasons.
10. In my view the factual corrections contended for are very unlikely to go to the root of the case or fundamentally change the Tribunal's reasoning such that there is a reasonable prospect of the original decision being varied or revoked.
11. The Claimant continues to maintain that there was a "parallel role" to her own and this is the basis for part of her application to reconsider. This was a contention and part of the Claimant's case that the Tribunal rejected.
12. It is not in the interests of justice for the Respondent to have to respond to same claim but put on a different basis or raising matters that ought to have been raised at the liability hearing.
13. I consider that there is no reasonable prospect of the original decision on liability being varied or revoked.
14. The Claimant's application is therefore refused.

Factual corrections

15. I indicated on 4 November 2022 that the Tribunal would be content to make factual corrections, in order that the written reasons are correct as far as possible. As directed the Respondent provided a written response to the Claimant's application by an email dated 22 November 2022.

16. As to the requested corrections to the chronology, the Respondent does not dispute proposed corrections to paragraphs 11 and 12 of the Tribunal's written reasons dated 14 September 2022 (contained in paragraph 24 and 25 Claimant's application dated 28 September) relating to the Claimant's career history. Given that these points are uncontentious, this is likely to be approved by the Employment Tribunal.
17. By contrast the remainder of the application, i.e. that contained at paragraphs 26 – 31 of the Claimant's application, is disputed by the Respondent, on the basis that these were factual findings open to the Tribunal to make based on the evidence and there is no good basis for altering these. These points will have to go to the full Tribunal.
18. I consider that the appropriate course of action is for these points to be considered by the panel at the re-listed remedy hearing, which will be listed once the outcome of the Claimant's appeal is known. It would not be a good use of Tribunal time to consider these points in advance of the remedy hearing, since that would require convening the Tribunal panel, and in any event of course the whole case may be altered depending on the outcome of the appeal.

Employment Judge Adkin

Date 30 December 2022

WRITTEN REASONS SENT TO THE PARTIES ON

30/12/2022

FOR THE TRIBUNAL OFFICE

Notes

Public access to employment tribunal decisions

Judgments and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the Claimant (s) and respondent(s) in a case.