



EMPLOYMENT TRIBUNALS

Claimant: Mr F Aliyu
Respondent: Tesco Stores Limited

JUDGMENT ON RECONSIDERATION

The Claimant's application dated 12 December 2022 for reconsideration of the judgment sent to the parties on 8 December 2022 is refused.

REASONS

1. The Claimant applied for reconsideration based on the reasons delivered orally on 2 December 2022, in advance of the provision of written reasons.
2. The Claimant's application for reconsideration includes a request that I "should not be given this case" because the Claimant intends to make a complaint about me. The application raises various allegations of bias on my part.
3. The process for reconsideration of judgments is set out in Rules 70-73 of the Employment Tribunals Rules of Procedure 2013. The key points for present purposes are:
 - a. Where an application is made for reconsideration, it must be initially considered by an Employment Judge to determine whether or not there is a reasonable prospect of the original decision being varied or revoked: Rule 72(1).
 - b. Where practicable, that consideration shall be by the Employment Judge who chaired the full tribunal which made the original decision: Rule 72(3). In this case, that is me.
4. The Employment Appeal Tribunal considered the meaning of 'practicable' in *Papajak v Intellego Group Ltd and ors EAT 0124/12* in relation to reviews

under the corresponding rule of the Tribunal Rules 2004, concluding it meant 'feasible' rather than 'convenient'. On the facts in that case, the EAT concluded that it was entirely appropriate for the original judge to deal with the claimant's application for review despite the claimant's allegation that the judge was biased (though the EAT supported the judge's comment that an allegation of bias would be more suitably dealt with by way of appeal to the EAT).

5. Taking account of the overriding objective, I consider the same approach to be appropriate here and I therefore proceed to determine the application for reconsideration on its merits.
6. In my judgement, there is no reasonable prospect of the original decision being varied or revoked based on this application.
7. The points raised by the Claimant in the application are either (1) challenges to the factual findings made by the Tribunal, or (2) allegations of bias on the part of the Tribunal.
 - a. Regarding (1), no cogent reasons are advanced by the Claimant as to why the factual findings made by the Tribunal did not have basis in the evidence.
 - b. Regarding (2), as indicated by the EAT in *Papajak*, allegations of bias in the conduct of the hearing and in the judgment are more suitably dealt with by way of an appeal to the EAT than by reconsideration.
8. The application for reconsideration is therefore refused.

Employment Judge Abbott

Dated: 11 January 2023