



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms Jabeen Haque

**Respondent:** Mitie Care and Custody Limited

## JUDGMENT ON RECONSIDERATION

The claimant's application dated 23 December 2022 for reconsideration of the judgment sent to the parties on 9 December 2022 is refused.

### REASONS

1. The application for reconsideration concerns my decisions (a) to refuse the claimant's application to amend her claim so as to plead her dismissal as an act of discrimination on grounds of race, religion and sex and (b) to strike out those claims of discrimination on grounds of religion, race and sex because all acts relied upon were out of time. I have carefully reviewed the points raised in the application for reconsideration and address these below.
2. The first main point of relevance to these decisions is the suggestion that it was incorrect for me to conclude that the dismissal was pleaded in the ET1 only as an act of discrimination on grounds of disability (points 42 and 56). The points raised are ones that the claimant raised in the hearing and that I took account of in making my findings. I consider the 'claim statement' attached to the ET1 to be clear in pleading the dismissal was based on the claimant's illness, not on grounds of race, religion and/or sex. It is correct that the ET1 does tick boxes for those kinds of discrimination, and the 'claim statement' identifies alleged acts of discrimination under those heads, but not the dismissal.
3. The claimant states in her application that she "can not take responsibility for the paid legal service and the errors made", and suggests that the solicitor who filed the claim clearly did not properly read and check the 'claim statement' that she had herself drafted. The difficulty with this submission is that it acknowledges the relevant drafting in the 'claim statement' originated from the claimant (i.e., that it was her choice to frame the claim in the manner

she did) rather than a 'mistranslation' on the part of her solicitor. I do not consider this point affects the conclusion I reached. Nor does the suggestion that the claimant has been advised she should contact the SRA about the preparation / submission of the claim (which advice is not itself evident from the emails she has relied upon).

4. A further point is raised that, whilst some of the perpetrators of the alleged historic acts of racial / religious / sex discrimination are no longer employed by the respondent, others are still employed. I already took account of this when deciding the respondent would nonetheless be significantly prejudiced by the historic allegations being allowed to proceed (see point 50).
5. It is further suggested that it was "incorrect that the majority of staff member[s] concerned were junior". This mischaracterized my judgment, which records at point 43 that "at least some of the individuals complained of were in more junior positions to Ms Haque". Nothing is raised in the application that, in my view, undermines the finding I made in point 43 – various points from the claimant's evidence are repeated, but I already considered and rejected those as part of my original judgment.
6. A criticism is raised of my finding in point 45 that Mr Saunders was not involved in the subsequent disciplinary process that led to the claimant's dismissal. An email indicating that Mr Saunders was due to meet the claimant on her return to work on 25 November 2019 is pointed to. However, this does not undermine my finding – the claimant herself acknowledges that, in fact, Mr Saunders was not present when she was suspended on 25 November 2019, and it is not suggested that I was otherwise wrong to find that he had no involvement in the disciplinary process. That Mr Saunders has been "involved in many other dismissals" is nothing to the point.
7. Finally, points are made regarding the claimant's health. However, the alleged historic acts of racial / religious / sex discrimination took place at least 5 months before the claimant's ill health began (see points 47-49). As regards the dismissal, the claimant was sufficiently able (with legal support) to file an ET1 and detailed 'claim statement' on time, with a clearly framed allegation of dismissal on the basis of her illness. I do not accept that the claimant's health can properly be relied upon as a reason why the dismissal was not also pleaded as an act of discrimination on grounds of race, religion and sex.
8. I therefore concluded that there is no reasonable prospect of the original decision being varied or revoked. In doing so, I acknowledge that the claimant is a litigant in person and that she has found the Tribunal process stressful (in particular at the hearing prior to the one I heard). However, I have no doubt that she has been able to give her best evidence on the issues with which this judgment is concerned, and I have carefully considered all the points she has raised, both in coming to my original decision and in this reconsideration. My decision is unchanged. This is a matter in which the parties and the interests of justice are best served by finality of litigation and, in particular, the confirmation of the Tribunal's judgment.
9. The application for reconsideration is therefore refused.

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**Employment Judge Abbott**

**Dated: 12 February 2023**