



EMPLOYMENT TRIBUNALS

Claimant: Mr V Ramaswamy

Respondent: Deloitte LLP

Representation

Claimant: In person

Respondent: Nicholas Bidnell-Edwards

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the tribunal is that the claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. At a preliminary hearing on 10th November 2022 a judgment was entered dismissing the Claimant's claim for constructive dismissal as he lacked the requisite qualifying service of two years.

2. On 4th December 2022 the Claimant applied to the Tribunal for a reconsideration of the judgment dated 10th November 2022 on the basis that the jurisdictional requirement for him to have two years' qualifying service under s.108 ERA 1996 did not apply to him as he was automatically unfairly dismissed pursuant to s.100 ERA 1996. He contended that this was apparent from his ET1 at Box 8.2 as he had mentioned that he had been 'so in fear of a degrading treatment in the future which he already had a taste of in the present.' He stated that this was an allusion to circumstances of health and safety related to his mental health and that he reasonably believed that it was serious and imminent so he resigned immediately. He contended that if his constructive dismissal claim was reinstated then his discrimination complaints ought to be reinstated as well as they were linked.
3. By email dated 11th December 2022 the Claimant added that his complaints were brought within the relevant time limits under ERA 1996 s.111 and under the Equality Act 2010 s.123. The discrimination was still occurring because the Respondent had failed to do anything about the discrimination that he had complained about against Mohit Malhotra while employed. He also contended that the Respondent constructively dismissed him so as to stop him blowing the whistle.
4. The Respondent provided a response to the application dated 23rd January 2023, which was drafted by Mr Bidnell-Edwards of Counsel. It was submitted that he had not pleaded a dismissal under s.100 ERA 1996 in his claim form. If he were doing so now it would take the form of an application to amend post judgment. The Respondent contended it was lacking in merit as it was inherently unlikely that the Claimant's concerns for his mental health would meet the threshold of circumstances of danger. The argument had not been raised at the preliminary hearing. The Claimant accepted his dates of employment were 1st June 2015 to 6th May 2016.
5. The grounds for reconsideration are only those set out in Rule 70, namely that it is necessary in the interests of justice to do so.
6. I find that the application has no merit and I refuse it. The Claimant did not raise any argument either in his claim form or at the hearing that he was exempt from the qualifying service requirement because he was bringing a claim under s.100 ERA 1996. It would be too late to advance such a case now by amendment or otherwise post judgment. The submissions made in the email dated 11th December 2022 have no reasonable prospects of success. The Claimant's application is an attempt to have another bite of the cherry.

7. Accordingly I refuse the application for reconsideration pursuant to Rule 72(1) because there is no reasonable prospect of the Judgment being varied or revoked.

Employment Judge A Frazer
Dated: 10th March 2023

RECONSIDERATION SENT TO THE
PARTIES ON

14/3/2023

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FOR THE SECRETARY TO
EMPLOYMENT TRIBUNALS