



EMPLOYMENT TRIBUNALS

Claimant: Mr A Burns

Respondent: GMB (1) Justin Bowden (2)

JUDGMENT

The claimant's application dated **6 March 2023** for reconsideration of the judgment sent to the parties on **28 February 2023** is refused.

REASONS

There is no reasonable prospect of the original decision being varied or revoked, because: -

1. I found the allegations listed at paragraph 2 of page 64/5 of the bundle (listed in Appendix 1 below) were new allegations of direct age/ sex discrimination and that these had not been made in the claimant's Particulars of Claim dated 7 July 2021. The fact that the new allegations may be linked to the allegations in the Particulars of Claim does not mean that they should not have been pleaded separately in the Particulars of Claim. The claimant has provided no new information in his letter of 6 March 2023 that would change my decision.
2. When giving my reasons for the decision, I stated that I did not have enough information from the way the new allegations were pleaded (including specific dates) to take a view on whether the new allegations were pleaded in time on 7 July 2021 or whether they were continuing acts as suggested by the claimant and I did not make a finding in this regard. The amended dates that the claimant has provided in his letter of 6 March 2023 therefore are not relevant to affect my decision as this was not based on the dates that specific events occurred.
3. The amendments to the Particulars of Claim were sought by the claimant on 21 Feb 2023, some 19 months after the claim was presented to the Tribunal on 7 July 2021. I found that the allegations had been bought out of time by *at least* 19

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months and did not find that it was just and equitable to extend the time limit due to the prejudice to the respondent during the 19-month delay and because the claims should and could have been made in the Particulars of Claim dated 7 July 2021. The claimant has provided no further information for the reason for his delay in seeking to amend the Particulars of Claim.

4. The claimant refers to paragraph 6 in his letter as, “Breach of ACAS guidance by not pausing first disciplinary hearing due to ill health and Key worker status due to COVID”. This was not an allegation that he sought to amend in the Particulars of Claim and is not relevant to the reconsideration application.
5. Having regard to all the circumstances above, I find that the claimant has made substantially the same application as he did on 21 February 2023 which has been considered and refused. Accordingly the claimant’s application for a reconsideration is refused.

Employment Judge Sekhon

Date: 13 March 2023

Appendix 1

- “(i) Childcare facility arrangement was changed for First Claimant by the Respondents officer (PG) following complaints by Z. This was made known to the Respondents Senior Organiser AP in Mar - Oct 2020 but nothing was done to prevent it.
- (ii) Working time directive was incorrectly applied by the Respondents officer (PG) for the First Claimant to suddenly step him from working elsewhere over the weekends from Oct 2019 - Feb 2020 when he had been allowed to do so since June 2019. This was even though the First Claimants substantive managers were fully aware of this and was agreed by the Respondents officer (PG) when he joined [First claimant] in June 2019. This was brought to the attention of the Respondents.
- (iii) First Claimants working hours were changed following complaints from Z, which meant that the First Claimant could not look adhere to his childcare responsibilities as well as other commitments, all these factors led to him leaving the branch in Feb/March 2020.
- (iv) Z was promoted as the Branch President by the Respondents Officer (PG) despite having no experience. First Claimant was pushed aside in this process despite being in the branch longer and having more experience in Feb 2020 (the process of which had begun in 2019) by PG.
- (v) Respondents discriminated and victimised the First Claimant by disciplining him for raising his concerns and complaining to Surrey County Council as per the Facilities Agreement between GMB and Surrey County Council. From Dec 2020 to March 2022 by Respondents. GMB Southern Regional Committee members, officers and the GMB Head Office senior management including GMB General Secretary. GMB President and other officers.
- (vi) The Claimant was victimised by GMB officials by the Respondents at the behest of Z as after complaints were raised by her. the GMB official tried to stop the Claimant working elsewhere on weekends on the pretext of working time directive while continuing to pay Z even for hours not worked by her. Actual comparator. In Feb - March 2020 by PG.”