



EMPLOYMENT TRIBUNAL

Claimant: Mr Sandeep Singh
Respondent: Asda Stores Limited
Heard at: London South Employment Tribunal

JUDGMENT ON RECONSIDERATION

The judgment of the Tribunal is that the application for reconsideration of the orders made on 16 December 2022 is refused.

REASONS

1. This is an application by the Claimant for reconsideration of the order dated 16 December 2022. Full reasons were given at the conclusion of the hearing.
2. The application to reconsider was made by way of three emails on 30 December 2021. The attachment to one of the three emails expired and was not downloadable at the time the Tribunal considered the same – there was a delay thereafter while that was re-sent. All three attachments have now been considered by the Tribunal. I note that in respect of the three attachments they were 11 pages, 22 pages and 16 pages respectively.
3. The Claimant seeks reconsideration of the Tribunal's decision to dismiss the Claimant's claim for harassment because of perceived disability.
4. The final hearing took place on 3 and 4 November and 16 December 2022.
5. Comprehensive reasons were given orally on 16 December 2022.
6. Written reasons have not been requested by either party in this case. The facts of the case are not rehearsed herein but I have them in mind and note the background was covered when oral reasons were given at the conclusion of the hearing.
7. The Tribunal's powers concerning reconsideration of judgments are contained in rules 70 to 73 of the Employment Tribunals Rules of Procedure 2013. A judgment may be reconsidered where "*it is necessary in the interests of justice to do so.*" Applications are subject to a preliminary consideration. They are to be refused if the judge considers there is no reasonable prospect of the decision being varied or revoked. If not refused, the application may be considered at a hearing or, if the judge considers it in the

interests of justice, without a hearing. In that event the parties must have a reasonable opportunity to make further representations. Upon reconsideration the decision may be confirmed, varied or revoked and, if revoked, may be taken again.

8. Under rule 71 an application for reconsideration must be made within 14 days the date on which the judgment (or written reasons, if later) was sent to the parties. I accept that this application was made in time.
9. The approach to be taken to applications for reconsideration was set out in the case of *Liddington v 2Gether NHS Foundation Trust* UKEAT/0002/16/DA in the judgment of Simler P.
10. The Tribunal is required to:
 - (a) identify the Rules relating to reconsideration and in particular to the provision in the Rules enabling a Judge who considers that there is no reasonable prospect of the original decision being varied or revoked refusing the application without a hearing at a preliminary stage;
 - (b) address each ground in turn and consider whether is anything in each of the particular grounds relied on that might lead ET to vary or revoke the decision; and
 - (c) give reasons for concluding that there is nothing in the grounds advanced by the Claimant that could lead him to vary or revoke his decision.
11. In paragraphs 34 and 35 of the judgment Simler P included the following: *“A request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration. Where ... a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.”*
12. In this case I have carefully considered all the grounds set out in the three emails provided by the Claimant. There are numerous matters raised – each has been considered even if they have not been referred to specifically below. The second and third attachments relate to ‘closing submissions’ and extensive material some which is new and had not been produced at the hearing. It will be disproportionate for the Tribunal to refer to each and every assertion in the extensive material submitted.
13. I note it is argued the Claimant sought to argue three different submissions at the end of the hearing but he asserts he was advised to make submissions on ‘law points only’ which prevented him arguing the different points. He also states (paragraph 21, first attachment) he was not allowed to finish his verbal closing submissions. The Claimant was given a comprehensive and full opportunity to develop his arguments throughout the hearing and at the end of the evidence the Tribunal set out that at the submissions stage it is not an opportunity to raise new points but a time to summarise the case of each party and if necessary, address the Tribunal on any legal points. He was not prevented from making submissions that were relevant to his case.

14. The Claimant asserts the Tribunal erred on the application of the law resulting in a one-sided judgment. This is not the case – the fact that the Claimant disagrees with the outcome does not make it one-sided. The law was accurately stated and applied and the Claimant was given an opportunity to respond to matters relating to the cited cases at the hearing.
15. The other arguments he relies on were arguments raised at the hearing and rejected or he raises new matters (eg paragraphs 6, 11 and 12, first attachment).
16. The process of an application for reconsideration is not an opportunity for a party to provide further evidence or to seek to reopen matters that the Tribunal has determined without good reason.
17. I have carefully considered the Claimant's application and the grounds he sets out for his application and I have concluded that there is no reasonable prospect of variation or revocation of the original decision. The grounds relied on are the matters that were raised at the hearing or which could have been raised at the hearing. The application for reconsideration does not raise any error of law, any procedural error or any other matter that would make reconsideration necessary in the interests of justice.
18. I therefore do not find it is necessary in the interests of justice to reconsider the original decision. I refuse the application for reconsideration as I consider there is no reasonable prospect of the decision being varied or revoked.

Employment Judge Rahman

Date: 27 April 2023