



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr Dhiren Ludhra

**Respondent:** Morgan Sindall Construction Infrastructure Ltd

## RECONSIDERATION JUDGMENT

The Claimant's application dated 9 August 2023 for reconsideration of the judgment sent to the parties on 30 June 2023 is refused.

### REASONS

1. The judgment was given orally at the hearing, with reasons, on 26 May 2023. Judgment was sent to the parties on 30 June 2023. Written reasons were requested by the Claimant on 1 July 2023. Written reasons were sent to the parties on 27 July 2023.
2. The Claimant emailed the Employment Tribunal on 9 August 2023 applying for a reconsideration of the judgment. The grounds for reconsideration appear to be in summary a failure to make a finding as to the date that the Respondent's aviation business closed or when the redundancy process ended and that the Claimant was not told why he was to be made redundant from 31 July 2020, there was no fair selection process, there was no finding of the nature of the core business of the Respondent, the company's house strategic document said that the company's activity was made up of 49% construction and 51% revenue was not taken into consideration, there was no finding of what the Claimant's role or trade was to be able to conclude that the Claimant's role was specific to the aviation business, the Claimant's arguments regarding redundancy were overlooked, the Claimant did not have notice of the Respondent's mitigation argument or an opportunity to re examine the Claimant on the issue of mitigation.
3. Rule 70 of the Employment Tribunal Rules of Procedure ("Rules") provides a sole ground for reconsideration as, where it is necessary to do so in the interests of justice. The interests of justice does not mean that in every case where a party is unsuccessful, they are automatically

entitled to reconsideration. Instead, a Tribunal dealing with the question of reconsideration must have regard to the overriding objective to deal with cases fairly and justly, and the Tribunal should be guided by the common law principles of natural justice and fairness.

4. Tribunals have a broad discretion but that must be exercised judicially, which means not only taking into account the interests of the party seeking the reconsideration, but also the interests of the other party to the litigation and the public interest in the finality of litigation (Outsight VB Ltd v Brown 2015 ICR D11 EAT).
5. Under rule 71 of the Rules, an application for reconsideration must be presented in writing and copied to all other parties within 14 days of the date upon which the written record of the decision which is the subject of the reconsideration application was sent to the parties, or if a request for written reasons was made, within 14 days of the date the written reasons were sent out, if later.
6. There is no reasonable prospect of the original decision being varied or revoked, because the Claimant's application for a reconsideration dated 9 August 2023 does not present evidence or matters that have not already been considered at the hearing. The written reasons contains all the findings that were necessary to come to the judgment made. I have had regard to the overriding objective, to consider the case fairly and justly and I have done so in respect of the Claimant's application. In so far as the Claimant complains that there was no opportunity to re-examine the Claimant regarding mitigation, Ms Sharma was given an opportunity to re examine the Claimant & herself on day 2 (25.05.23) of the hearing. Furthermore, the issue of mitigation was agreed as an issue at the start of the hearing. Notwithstanding, I made a finding wholly in the Claimant's favour regarding mitigation. I must also have regard to the public interest requirement so far as is possible there be finality of litigation. In the circumstances, the Claimant's application for reconsideration of the award £427.82 in the judgment sent to the parties 30 June 2023 is refused.

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Employment Judge Young

Date 16 August 2023 \_\_\_\_\_

JUDGMENT SENT TO THE PARTIES ON

31 August 2023

FOR THE TRIBUNAL OFFICE