



EMPLOYMENT TRIBUNALS

Claimant: Ms L A Crabtree

Respondents:

- 1. Marc Bandemer**
- 2. Integer Wealth Global Ltd**
- 3. Critical Mass Technologies Ltd**
- 4. Integer Wealth Capital Ltd**

ORDER ON APPLICATION FOR RECONSIDERATION

1. The application for reconsideration is dismissed.

REASONS

1. An application is made pursuant to rule 70 of the Employment Tribunal Rules of Procedure, which provides as follows.

70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision ("the original decision") may be confirmed, varied or revoked. If it is revoked it may be taken again

2. The application for reconsideration is made under rule 71 of the Employment Tribunal Rules of Procedure. The process under rule 72 is for the judge who chaired the full tribunal to consider the application and determine, first, whether he or she considers that there is no reasonable prospect of the original decision being varied or revoked. If the judge is of that view, the application must be refused otherwise the views of the other parties to the case must be sought.

3. For the reasons I will set out below, I do not consider that there is any reasonable prospect of the original decision in this case being varied or revoked and, therefore, I refuse the application for reconsideration.
4. In approaching the application for reconsideration I have considered the cases of *Flint v Eastern Electricity Board* [1975] ICR 395 and *Outsight VB v Brown* [2015] ICR D11. The principles set out in those judgments are helpfully summarised in the more recent case of *Ministry of Justice v Burton* [2016] ICR 1128, where at paragraph 21 the Court of Appeal stated “*An employment tribunal has a power to review a decision “where it is necessary in the interests of justice”: see rule 70 of the Employment Tribunals Rules of Procedure 2013. This was one of the grounds on which a review could be permitted in the earlier incarnation of the rules. However, as Underhill J pointed out in Newcastle upon Tyne City Council v Marsden [2010] ICR 743, para 17 the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray & Vials [1994] ICR 384 Mummery J held that the failure of a party’s representative to draw attention to a particular argument will not generally justify granting a review. In my judgment, these principles are particularly relevant here*”
5. The claimant has asked for reconsideration in respect of four matters.
6. The first is for the tribunal “to make determinations on the issues regarding the promotion from executive director to strategic development director as of February 1st 2022 as it is not clear in the judgment”.
7. The tribunal only made decisions on those factual matters necessary for the resolution of the issues. Many points were referred to over the course of the hearing and it is neither possible nor, generally, desirable for a tribunal to make a finding in respect of every factual dispute raised. The tribunal makes those determinations which are necessary to resolve the issues. The tribunal dealt with the promotion, to the extent necessary, in paragraphs 165 and 166 of the judgment. The findings recorded in those paragraphs then formed the basis of the further findings in paragraphs 253 to 261 and the conclusions at paragraphs 323 onwards. The tribunal did not need to make any further findings of fact in order to determine the issues which had been identified in the case and confirmed by the parties at the outset of the hearing. This part of the application has no reasonable prospect of success.
8. The next point raised is that the tribunal’s judgment is not clear on the question of employer pension contributions. The judgment is silent on the question of employer contributions since that was not one of the issues which the tribunal had to determine. The list of issues is set out as an annex to the Reasons and the claimant is referred to paragraph 7.1 in that respect. It would be contrary to the interests of justice to reopen the issues at this stage in the proceedings and it is not necessary in the interests of justice for there to be a reconsideration in this respect. This part of the application has no reasonable prospect of success.

9. The third point raised by the claimant is that reconsideration should be made regarding “the one month bonus”. At the outset of the hearing, whilst represented by counsel, the claimant withdrew her claim in respect of a bonus and the question was not determined by the tribunal. Given that the claim was withdrawn, there is no reasonable prospect of the claimant obtaining a reconsideration in this respect.
10. Finally the claimant asks for a reconsideration in respect of “the unpaid 1.5 months’ salary”. In that respect the claimant is referred to paragraphs 335 and 348 of the judgment. The tribunal was not satisfied on the evidence that any sums were due in respect of 1.5 months’ salary. There is no reason why the claimant should be able to reopen this factual finding and the application for reconsideration has no reasonable prospect of success.
11. In those circumstances the application is dismissed.

Employment Judge Dawson
Date 16 October 2023

Judgment sent to the Parties on 07 November 2023

For the Tribunal Office