



EMPLOYMENT TRIBUNALS

Claimant: Mr J Mireku

Respondent: London Underground Limited

JUDGMENT

The Claimant's application dated **17 December 2023** for reconsideration of the judgment sent to the parties on **5 December 2023** is refused.

REASONS

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

1. The Tribunal has a broad discretion on a reconsideration application. The discretion must be exercised judicially, having regard to the interests of the party seeking reconsideration, the other party, and the public interest of finality in litigation (*Outasight VB Ltd v Brown* [2015] ICR D11). There is no requirement for 'exceptional circumstances'. Reconsiderations are a limited exception to the general rule that Tribunal decisions should not be reopened and relitigated; they are not a method by which a disappointed party to proceedings can get a second bite of the cherry.
2. The Claimant's application identifies two errors in the written reasons, at paragraphs 29 (where the wrong person was referred to) and at paragraph 38 (where the wrong station area was referred to). They will be corrected under Rule 69 of the ET rules. On reviewing the decision I also noticed that the breach of contract claim was not formally dismissed in the judgment, although it is referred to at paragraph 3 of the reasons. That will also be corrected by adding a second paragraph to the judgment confirming that the breach of contract claim is dismissed.
3. The remainder of the Claimant's application is largely an attempt to relitigate the case and I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. Dealing with some of the specific points raised:
 - a. As to paragraphs 40 and 80, the Claimant seeks to introduce new evidence to challenge the findings at these paragraphs. If the Claimant's case is that the evidence was not available at the time that the Tribunal made its judgment then he would ordinarily need to show:

- i) That the evidence could not have been obtained with reasonable diligence for use at the original hearing
- ii) That the evidence is relevant and would probably have had an important influence on the hearing; and
- iii) That the evidence is apparently credible

(per *Ladd v Marshall* [1954] 3 All ER 745).

The Claimant has no reasonable prospect of satisfying me that points i) and ii) above are met.

If the *Ladd v Marshall* test is not strictly met then the Claimant would need to satisfy me that this case falls into a residual category where it is in the interests of justice for the evidence to be considered, bearing in mind that the *Ladd v Marshall* test will in most cases encapsulate what is meant by 'the interests of justice'. There is no reasonable prospect of the Claimant satisfying me that this falls into the residual category.

- b. As to paras 63-65, having reviewed my notes of the Claimant's closing submissions I am satisfied that he made submissions about a continuing act, but did not put forward reasons for an extension of time on a just and equitable basis.

Employment Judge Curtis
Date: 31 January 2024