



EMPLOYMENT TRIBUNALS

Claimant: Dr V Chandra

Respondent: University and College Union (1) and
27 other individual Respondents (2)

Sitting at: London Central

On: 8th February 2024

Before: Employment Judge Nicklin

JUDGMENT ON RECONSIDERATION APPLICATION

The Claimant's application dated 28th November 2023 for reconsideration of the costs judgment sent to the parties on 14th November 2023 is refused.

REASONS

1. By an email to the tribunal dated 28th November 2023, the Claimant applied for reconsideration of the costs judgment that was sent to the parties on 14th November 2023 and in which it was decided that the Claimant's deposit had been forfeit and he was ordered to pay the 26 individual Respondents (those being represented by Browne Jacobson LLP) a total sum of £3,000 (less the deposit) ("**the costs judgment**").
2. The Claimant's written application primarily seeks clarification about the findings and decisions in the costs judgment but it does also expressly seek reconsideration. There is no provision or requirement for the tribunal to provide clarification and explanations to the parties for a judgment. The written reasons for the costs judgment were provided in full. However, I am satisfied that the email can properly be treated as an application for reconsideration under Rule 71 of the tribunal's Rules of Procedure which was presented within the 14-day time limit and copied to the Respondents' representative.

3. On 11th January 2024, the tribunal wrote to the parties to advise them that the application had been received. It was not seen by the judge immediately upon presentation. It was confirmed that the application appeared to be in time and will be first considered under Rule 72(1) of the tribunal's Rules of Procedure. The parties were notified that, owing to other hearings and work, there would be a delay in the application being considered under Rule 72(1) and that nothing further was required from the parties at this stage. I apologise to the parties for not being able to send this decision any earlier.
4. The Claimant raises the following matters which give rise to his application for reconsideration of the costs judgment:
 - a. A request for the tribunal to clarify whether it is the finding of the tribunal that an individual being joined as a 'party' means there should be a claim 'against' that individual;
 - b. A request for the tribunal to clarify whether it is a finding of the tribunal that it was the Claimant who made the argument that the 27 Respondents (as defined in the costs judgment: the 27 individual Respondents named in the claim) are 'a union';
 - c. A request for the tribunal to clarify that even if an application substituting the LSE branch of the First Respondent (i.e. the Union) for the 27 Respondents is made and granted and the Claimant's Rule 3(10) application succeeds (as regards his appeal against the judgment of EJ Connolly sent to the parties on 10th May 2023) it is the finding of the tribunal that the 27 individuals would not be deemed to have returned to the proceedings;
 - d. Reconsider the costs judgment in light of these matters and revoke the decision.
5. The application for reconsideration is refused under Rule 72(1) of the tribunal's Rules of Procedure. There is no reasonable prospect of the costs judgment being varied or revoked for the following reasons:
 - a. The application is presented on the footing that a number of findings (in law and fact) have been made by the tribunal in determining the costs judgment. It was necessary for the tribunal to decide whether the decision in EJ Connolly's judgment sent on 10th May 2023 was substantially for the reasons given by EJ Snelson for making the deposit order on 16th March 2023. However, the decision in respect of jurisdiction and the dismissal of the claims against the 27 Respondents are not decisions made in the costs judgment. Accordingly, the first question raised by the Claimant is not a matter which can amount to a ground for reconsideration. In any event, the distinction which the Claimant has sought to make in respect of individual Respondents as parties against whom the claim is brought and individual Respondents as parties for other reasons (for example, because they may be interested in the outcome) is analysed and fully set out at paragraph 41(i) of the costs judgment. It is of no assistance to cite previous versions of the tribunal's Rules of Procedure. There is no reasonable prospect of the costs judgment being varied or revoked on this basis; EJ Connolly decided the question of jurisdiction in respect of the individual Respondents and there is a clear nexus between that finding and the reasons for the deposit order.

- b. Whether the Claimant contends that the 27 individuals could constitute ‘the Union’ or ‘a Union’ is a distinction, for the purposes of the jurisdictional issues resolved by EJ Connolly and the consequences of that judgment in respect of the deposit order, without a difference. This is dealt with at paragraphs 41(g) and (h) of the costs judgment. EJ Connolly’s decision considered the question of jurisdiction as to whether the claims should proceed against individuals as well as the First Respondent.
 - c. Any suggestion in this application that the Claimant did not seek the retention of the 27 individuals within the proceedings (regardless of the labelling or basis for their retention) is wholly undermined by the fact that this was expressly requested at the end of the Claimant’s skeleton argument for the hearing before EJ Connolly.
 - d. As to the issue raised concerning the proposed return of the 27 individuals to the proceedings, this is not a matter for reconsideration of the costs judgment. It is, in any event, apparent from what is said in the Claimant’s application that the proposal would be (subject to a number of matters which are not before this tribunal) a branch that would become a party, not the individuals. There is nothing in this point which provides a basis to vary or revoke the costs judgment.
 - e. It is important for the Claimant to note that it is made clear at paragraph 43 of the costs judgment that, even if EJ Connolly’s decision had not been substantially for the reasons given by EJ Snelson in making the deposit order, the pursuit of the claims against the 27 individuals after 16th March 2023 amounted to unreasonable conduct for the purposes of Rule 76(1)(a). The tribunal then gave full reasons for the exercise of its discretion in making the order and considered a reasonable and proportionate amount to be paid.
6. Accordingly, there is no reasonable prospect of the costs judgment being varied or revoked and the application is therefore refused.

Employment Judge Nicklin

Date: **8th February 2024**

JUDGMENT & REASONS SENT TO
THE PARTIES ON

.....15 February 2024.....

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FOR THE TRIBUNAL OFFICE