



EMPLOYMENT TRIBUNALS

Claimant: Mr C S Cheng

Respondent: Garic Ltd

JUDGMENT

The claimant's application dated 18 December 2023 for reconsideration of the judgment sent to the parties on 7 December 2023 is refused.

REASONS

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

The Tribunal took into account all the evidence presented by the parties at the final hearing. The written reasons set out the Tribunal's findings of fact which are based on the evidence presented to the Tribunal. The Tribunal is not required to recite or repeat all the evidence it read or heard. Rather, it makes the findings of fact which are relevant, necessary and material for it to make in order to resolve the legal claims in the case. To the extent that the written reasons do not set out each and every piece of evidence read or heard, that is because they are not required to do so.

The reconsideration application asserts (in places) that findings of fact were made by the Tribunal orally during the course of the hearing. This is not correct. The findings of fact were made during the Tribunal's deliberations and were communicated to the parties orally at the conclusion of the hearing when the oral judgment and reasons was given, and then with the subsequent provision of written reasons. The written reasons are the definitive record of the Tribunal's findings as provided for by the Tribunal's rules and procedures.

The Tribunal decided the case according to the agreed list of issues. Therefore, it considered whether protected disclosures had been made as identified in that list of issues. Some of the alleged protected disclosures were said to have been made orally and others in writing. The Tribunal considered each protected disclosure as described and presented by the parties in the list of issues (e.g. according to whether it was said

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to be written or oral and on what date it was said to have occurred.) To the extent that the reconsideration application directs us to examine whether there were other protected disclosures (or disclosures made in a different format), this was not the case that the Tribunal had to determine. It would not be appropriate to modify the issues in the case in this way after the conclusion of the final hearing.

In order for the judgment to be varied or revoked the claimant would need to persuade the Tribunal to vary its conclusion on each limb of the relevant legal test (i.e. in the case of the protected disclosure detriment claim, that there was a protected disclosure, that there was a detriment and that there was the necessary causation between the two.) There is no reasonable prospect of the Tribunal being persuaded to change its decision in relation to each necessary limb of the claimant's public interest disclosure detriment claim, his automatically unfair dismissal claim or his direct discrimination claim so as to render one or more of his legal claims successful.

The judgment and reasons address the case as presented by the parties at the final hearing. The public interest in finality of litigation indicates that it is not appropriate to reopen the case to consider it in a different way. Both parties had a fair opportunity to present their cases at the final hearing and to produce the relevant evidence in support of their position. The reconsideration application seeks a second opportunity to argue the case in circumstances where the interests of justice do not require it.

Employment Judge Eeley

Date: 7 March 2024

JUDGMENT SENT TO THE PARTIES ON

18 March 2024

FOR THE TRIBUNAL OFFICE