



EMPLOYMENT TRIBUNALS

OPEN PRELIMINARY HEARING

Claimant:
Ms M Mulumba

And

Respondents:
(R1) Partners Group (UK) Limited
(R2) Partners Group (USA) Inc

On: 2 February 2024

Before: Employment Judge Nicolle in Chambers

Judgment

The Claimant's application dated 18 January 2022 for reconsideration of the Tribunal's reserved Judgment on liability sent to the parties on the 4 January 2022 (the Judgment), is refused.

Background

1. Unfortunately there has been a significant delay in the Claimant's application been addressed. This is primarily as a result of EJ Nicolle being on sick leave from 6 January 2022 until 3 March 2023 compounded by a failure of the Tribunal administrative staff to refer this matter to him on his return to active duty.
2. The Claimant had previously made applications for a reconsideration of earlier Tribunal decisions dated 28 August 2021 and 18 October 2021 both of which were refused in Judgments sent to the parties on 3 October 2021 and 3 November 2021. Further, the Claimant's application dated 7 February 2022 for reconsideration of the oral ruling given by the Tribunal on 30 November 2021, and in respect of which, following a request by the Claimant on 12 January 2022, written reasons were sent to the parties on 23 January 2022 was refused in a Judgment dated 16 October 2023.
3. The reconsideration Judgment of 16 October 2023 contained the following:

“This would appear to be a reference to an earlier reconsideration application made on 18 January 2022, which is not currently accessible to the Employment Judge, but if the Claimant considers that notwithstanding the above this requires a separate response she is invited to resend it and provide clarification as to why the application remains relevant given the time which has elapsed and the comments made by the Respondents’ solicitors.”

4. The Claimant did not give any indication subsequent to this Judgment being promulgated, despite being invited to do so, that there was any outstanding reconsideration application.

Reasons

5. I have considered the application by the Claimant dated 18 January 2022 for a reconsideration of the Judgment (the Reconsideration Application).
6. I have considered the Reconsideration Application in accordance with the provisions set out in Rule 70 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013 (the Rules) which provides that reconsideration is only appropriate where it is necessary in the interests of justice and under Rule 72 there is a reasonable prospect of the original decision being varied or revoked.
7. Reconsiderations are limited exceptions to the general rule that employment Tribunal decisions should not be reopened and relitigated. It is not a method by which a disappointed party to proceedings can get a second bite of the cherry.
8. Reconsideration is not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced, which was available before.
9. A Tribunal dealing with the question of reconsideration must seek to give effect to the overriding objective to deal with cases ‘fairly and justly’ in accordance with Rule 2.
10. In considering the application regard needs to be given to not only the interests of the party seeking the reconsideration, but also to the interests of other parties to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
11. I do not consider that the various matters referred to in the Reconsideration Application would, in accordance with the interests of justice, make it appropriate for there to be a detailed reconsideration of the Judgement.
12. I have reached this decision for the following reasons:
13. I consider that it would be inconsistent with the overriding objective, and excessively prejudicial to the Respondents, to revisit a ruling which was given

after a 15 day hearing and in respect of which the Tribunal gave a Judgment running to nearly 100 pages given the time which has elapsed.

14. The Claimant refers to relevant evidence not being recorded in the findings of fact and/or considered in the reasons section of the Judgment. Again I do not consider that this application for reconsideration of the Judgment has any prospect of success given that it is by necessity that not all of the evidence will be recorded in the findings of fact. It represents a matter of Judgment for the Employment Judge as to which evidential matters are deemed of material significance in the context of the issues and the Tribunal's findings.
15. In any event having considered the basis of the application I consider that there is no prospect that any of the matters referred to by the Claimant would have materially altered the Tribunal's consideration of the case. I do not consider that the Tribunal failed to address the full and accurate version of the issues.
16. In relation to the principal grounds upon which the Claimant seeks reconsideration I comment as follows.
17. Her contention that SOSR is inappropriate to her dismissal is a point of law for an appeal rather than a matter for reconsideration given the Tribunal's very clear findings on the Claimant's dismissal as set out at paragraphs 642 to 650 of the Judgment.
18. The Claimant's various contentions that her treatment and ultimately dismissal were discriminatory have all been adequately addressed in the Judgment. The Claimant is effectively seeking to re-litigate the liability hearing and the Tribunal's detailed findings of fact.
19. It is not accepted that the Judgment was inappropriately hasty nor that both parties' evidence, submissions and the legal authorities to which they made reference were not appropriately considered. The Tribunal had 3 days of detailed deliberations to determine all relevant issues.
20. It is not accepted that inappropriate weight was given to the Respondents' witness evidence.
21. In the circumstances I consider there is no reasonable prospect of the Judgment being varied or revoked and it is therefore unnecessary to seek the Respondents' response to the Reconsideration Application and nor is it necessary to seek the parties' views on whether it can be determined without a hearing.

Employment Judge Nicolle

2 April 2024

Sent to the parties on:

10 April 2024

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For the Tribunal:

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