EMPLOYMENT TRIBUNALS

Claimant: **Sahidur Rahman**

Respondent: **London Borough of Tower Hamlets**

Heard at: **East London Hearing Centre (on paper)**

On: **09 April 2024**

Before: **Employment Judge Housego**

Representation
Claimant: Written application
Respondent: None

JUDGMENT ON RECONSIDERATION

The judgment of the Tribunal is that:

1. **The Claimant's application for reconsideration is refused because there is no reasonable prospect of the decision being varied or revoked.**

2. **The Claimant's request for anonymity is refused.**

REASONS

1. On 16 February 2024 I struck out this case under Rule 37 as having no reasonable prospect of success. The judgment was promulgated on 28 February 2024.

2. By email of 12 March 2024 at 14:13 the Claimant submitted an application for reconsideration of that judgment and on 24 March 2024 emailed the Tribunal and asked for the judgment to be anonymised.

3. The relevant procedural rules relating to reconsideration of judgments are in Schedule 1 of the Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. Those relevant Rules are as follows:

RECONSIDERATION OF JUDGMENTS

Principles

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.*

Application

71. *Except where it is made in the course of a hearing, an application for reconsideration shall be presented in writing (and copied to all the other parties) within 14 days of the date on which the written record, or other written communication, of the original decision was sent to the parties or within 14 days of the date that the written reasons were sent (if later) and shall set out why reconsideration of the original decision is necessary.*

Process

72.—*(1) An Employment Judge shall consider any application made under rule 71. If the Judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the Tribunal shall inform the parties of the refusal. Otherwise the Tribunal shall send a notice to the parties setting a time limit for any response to the application by the other parties and seeking the views of the parties on whether the application can be determined without a hearing. The notice may set out the Judge's provisional views on the application.*

(2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.

(3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a

decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.

Reconsideration by the Tribunal on its own initiative
73. *Where the Tribunal proposes to reconsider a decision on its own initiative, it shall inform the parties of the reasons why the decision is being reconsidered and the decision shall be reconsidered in accordance with rule 72(2) (as if an application had been made and not refused).*

4. The reconsideration application runs to 11 pages. It commences with a list of 7 points:

1. Judge Housego judgment was unfairly prejudice
2. Judgement failed to consider relevant factor and law at the material time
3. Judgement Substantial error-in fact finding
4. Judgement Inaccurate assessment of evidence and investigation
5. I claimant have Inadequate representation
6. Judge Housego failure to accommodate disabilities
7. Substantial public interest.

5. The application then gives some personal detail about me. It states that I was “Wearing a Blue glittery bowtie”. I have worn bow ties for many years, and there has never been any comment critical of my attire in a Tribunal. I do not own a glittery bow tie. It is hard to see the relevance of this comment to the application to reconsider the judgment I gave, unless it be to disparage my qualities as a judge. The judgment will speak for itself.

6. The application states that it was obvious that before the hearing I had decided to dismiss the claim because there is a process of sifting out claims by unrepresented claimants. This is not so. The paragraph then sets out unparticularised critical assertions about me. These do not call for a response in this decision. They are not correct and they afford no reason to reconsider my judgment.

7. The Claimant then states that the hearing was “a one way street” and the Respondent provided no information. The Claimant misunderstands the position. I took the Claimant’s case at its highest (and went to considerable trouble to establish what his claims were). The hearing was not about the defence, but about whether the claims had any reasonable prospect of success: that is the focus was on what the Claimant was saying. I concluded that the Claimant’s claims had no reasonable prospect of success.

8. The application then moves on to describing the start of the hearing. I accorded the Claimant as much preparation time as he requested and before and during the hearing did as much as possible to accommodate the

needs of the Claimant's disabled relatives. There is in the application no indication of what the Claimant is unhappy about. This part of the application appears to be an assertion that I was in some way prejudiced against the Claimant. That would be a matter for judicial complaint rather than a reason for reconsideration of the judgment. The reasons for my judgment are set out in it.

9. The Claimant raised the fact that it was a Friday and he wished to pray. I asked what he wished to do and gave him everything he asked for. I did not curtail the hearing in any way, and nor did I rush the Claimant at all. I accorded the Claimant every opportunity to say what he wished to say. I set out the course of the hearing in paragraph 22 of the judgment.

10. The Claimant then says that he disagrees with my judgment. That is not a reason for me to reconsider that judgment.

11. Paragraph 4 of the application is not easy to understand. I was the judge in a previous case management hearing in this case. I explained to the Claimant that it was simply chance that I was the judge in this case management hearing. That was true. I did not reserve the case to myself, and did not know that I was to hear the case until the morning of the hearing.

12. Much of the rest of the application is an expression of disagreement and of dissatisfaction with the Respondent. The judgment will speak for itself.

13. Other parts of the application seem to be a revision or elaboration of the claims made. They are not good reason to revisit the judgment. The substance of the claim has appeared to be different, or to evolve, on each new iteration of it. Having spent a long time and much effort to find out what the case being put forward was it is not appropriate, after it has been struck out, to reformulate it and seek to overturn the judgment giving reasons not advanced in the hearing.

14. Paragraph 11 of the application refers to without prejudice matters, of which I was unaware at the hearing. They are not relevant to my judgment. The Claimant refers to seeking witness orders. That is not relevant as taking the Claimant's case at its highest I decided that the claims had no reasonable prospect of success.

15. In paragraph 13 of the application the Claimant refers to the claim being struck out for not actively pursuing the case. I did not strike out the claims for that reason. Paragraph 13 of the judgment says so.

16. I went to great lengths to explore with the Claimant what his claims were about. My reference in paragraph 83 was that 3 judges had spent a lot of time and effort trying to help the Claimant and I set out what his case was

earlier in the judgment. I considered that there was no more that the judiciary could do to help the Claimant. I remain of that view.

17. The Claimant refers to another case, Bennett v Iceland Frozen Foods Ltd, case number 3201145/2023. On 23 December 2023 I took a case management hearing in that case. It was a claim for unfair dismissal and unlawful discrimination. I struck out the unfair dismissal claim in that case because that claimant did not have the necessary two years' service and I gave directions in the Equality Act 2010 claims. This has no relevance to the Claimant's claims.

18. The Claimant then refers to the case management hearing I took in January 2024 and observations that it might be struck out for not being actively pursued. As I did not strike out the Claimant's claims for not being actively pursued this can have no relevance to the application for reconsideration of the judgment.

19. Point 16 refers to the Claimant's late father. The main issue with the Claimant's associative discrimination claim based on his late father is precisely because he had died. I set this out in paragraph 80 of the judgment.

20. Paragraph 17 sets out a list of things that the Claimant says I should have investigated with the Respondent. In the hearing I was considering the Claimant's case, at its highest, not investigating the Respondent's actions. Some of the points are irrelevant, such as whether or not the Respondent loaned millions of pounds to other Councils (point 17.21).

21. The Claimant states that I failed in fact finding (paragraph 18). I made no findings of fact but considered the Claimant's case at its highest.

22. In paragraph 22 the Claimant says that I "gloated" over the fact that I had never been overturned when striking out cases. First, there is no question of gloating. I was as helpful to the Claimant as it was possible to be. What I said was that it was very rarely that a discrimination claim was struck out in this way, and that I could only recall doing so on one previous occasion in the 30 years I had been fulfilling the role of Employment Judge.

23. I do not think I can usefully comment on paragraph 24 and other paragraphs of the application save to say that they give no reason to reconsider the judgment.

24. As to paragraph 28, my observation to the Claimant was that I would be doing him no favours if I made a deposit order following which he would inevitably lose (because I had decided that his claims had no reasonable

prospect of success) as he would then probably be facing a very large costs application.

25. It is not appropriate for the Claimant to ask for a judge who is other than white.

26. In specific response to the seven points at the start of the application:

1. *Judge Housego judgment was unfairly prejudice* - this is not the case.

2. *Judgement failed to consider relevant factor and law at the material time* – I set out the law in my judgment. I made extensive efforts to establish the Claimant's case and having done so took his case at its highest when making my decision.

3. *Judgement Substantial error-in fact finding* – I did not undertake fact finding.

4. *Judgement Inaccurate assessment of evidence and investigation* – the judgment will speak for itself.

5. *I claimant have Inadequate representation* – I made every possible effort to assist the Claimant as a litigant in person, and as it is frequently the case that claimants are not represented, I have considerable experience in assisting litigants in person to present their cases fully, which is what I did in this hearing.

6. *Judge Housego failure to accommodate disabilities* – how was not particularised in the application. If it be borderline personality disorder there is no medical evidence in support of such a disability, or any indication of what accommodation might be required. The Claimant did not appear to have any difficulty in comprehension or advocacy during the hearing, I made clear to him that if he needed anything changed to assist him present his case, or needed a break at any time he had only to say, and I would accommodate him. I acceded to every request he made of me for adjustments, whether for disability or religious reasons.

7. *Substantial public interest.* – There is no particular point to address under this heading.

27. The Claimant asked that the judgment be anonymised to protect his privacy and that of his family, relating to their disabilities. The principle of open justice requires this application to be refused. It is unspecific. Every disability discrimination claim involves personal information. Save in exceptional circumstances the judgments are always published in full. In addition, there

is nothing in the judgment which gives any detailed personal information about any family member of the Claimant.

Employment Judge Housego
Dated: 9 April 2024