



EMPLOYMENT TRIBUNALS

OPEN PRELIMINARY HEARING

Claimant:
Ms M Mulumba

And

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

On: 30 April 2024

Before: Employment Judge Nicolle in Chambers

Judgment

The Claimant's application dated 25 April 2024 for reconsideration of the Tribunal's reserved judgment on the application of Polkey dated 5 April 2024 (the Judgment), is refused.

Background

Reasons

1. I have considered the application by the Claimant dated 25 April 2024 for a reconsideration of the Judgment (the Reconsideration Application).
2. 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.
3. 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.

4. 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.
5. 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.
6. 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.
7. 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 Judgment.
8. I have reached this decision for the following reasons:
9. The Claimant's opposition to a hearing at this juncture to determine Polkey was considered and recorded at paragraph 4 of the Judgment. There is no basis for this determination to be reconsidered. As explained at the hearing in the event that any of the claimant's appeals/reconsideration applications succeeds the determination made as to Polkey would in all probability be subject to reconsideration.
10. The Tribunal read the entirety of the Claimant's 59 page submission in advance of the hearing but as indicated at paragraph 10 of the Judgment very little within that document directly related to the issue of Polkey. The Tribunal took account of relevant submissions but the overwhelming majority of the Claimant's assertions went to the substantive liability issue which had already been determined as opposed to the much narrower issue of what, if any, Polkey deduction should apply. I do not consider that there is therefore any basis for reconsideration in this regard.
11. I reject the Claimant's assertion that it was improper for the Tribunal at paragraph 17 to make reference to what a relevant provision within the 10 January 2020 jurisdiction judgment (the Jurisdiction Judgment). In any event the reference to paragraph 78 was of relatively limited significance to the decision on Polkey given that it solely related to the basis upon which the Claimant's employment in London was extended. I therefore do not consider that any basis exists for reconsideration on this basis.
12. 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

30 April 2024

Sent to the parties on:

16 May 2024

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For the Tribunal:

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