EMPLOYMENT TRIBUNALS

Claimant		**Respondent**
Alexandra Howe	**v**	**British Airways plc**

Heard at: Watford Employment Tribunal **On**: 26 April 2024

Before: Employment Judge Coll

Appearances
for claimant: Mr. S Crawford, counsel
for respondent: Mr. G Baker, counsel

RESERVED JUDGMENT AFTER RECONSIDERATION

1. The judgment is confirmed in respect of the complaint of unfair dismissal. The claim for unfair dismissal does not succeed.

REASONS

Background – Law applicable to this reconsideration application

2. The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, Schedule 1, provides as follows:

"70. A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) 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.

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.

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.

72. (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."

Background – chronology of the case

3. A liability hearing took place on 24 – 27 April 2024. The reserved judgment was promulgated on 22 June 2023.

The application for reconsideration - overview

4. An application for reconsideration was made by the claimant, which was the subject of directions and then listed for a hearing on 26 April 2024.

5. The documents available to me at the hearing were:

   5.1 The joint bundle of documents for the reconsideration hearing - 42 pages. This consisted of the claimant's application, submission and the respondent's response and submission.

   5.2 The respondent's skeleton argument for the reconsideration hearing was made available in advance of the hearing to the claimant, and at the start of the hearing to the tribunal.

   5.3 I was most helpfully referred to the cases of **Omooba v Global Artists & Anor** [2024] EAT 30 and **Mirab v Mentor Graphics UK Limited** UKEAT/0172/12/DA and in particular paragraphs 51 – 54 (respectively by Mr. Baker and Mr. Crawford*).*

   5.4 The original hearing bundle and witness statements were also before the parties and the tribunal. Page numbers in these reasons refer to pages in the bundles prefaced with RB [reconsideration bundle] and HB [original hearing bundle].

The application for reconsideration - detail

6. On 5 July 2023, the claimant made an application for reconsideration [RB 25 – 28].

7. In my judgment at §86, I wrote: "*the claimant did not raise any point re unfairness of procedure*".

8. This was the basis for seeking a reconsideration. The application explained: "*It is submitted that the conclusion that no points were raised about the unfairness of the procedure is an error since the claimant by way of cross-examination of the appeals officer Mrs. Allport, and in closing submissions asserted that Mrs. Allport was "abject in her dereliction of duty" in fulfilling what would amount to a fair appeal of the decision to dismiss*".

9. Mrs. Allport conducted the first of two appeal hearings [record at HB 464-476] and produced an outcome of appeal letter [HB 479-488]. Mr. Rickwood conducted the second appeal hearing called "the final stage appeal" [record at HB 547-558] and also produced an outcome of appeal letter [HB 561-575] but took no part in the hearing in April 2023 (either in the form of a witness statement or as a witness), having left the employment of the respondent.

10. On 2 August 2023, the respondent lodged an objection [RB 30] and submissions [RB 31 – 35].

11. I made direction 3 in a number of directions, stating the reason why as follows:

    "Upon the written submissions not dealing with all relevant matters in sufficient detail and in particular in relation to the second appeal,

    And upon a reconsideration determination under Rule 72(1) of the Employment Tribunal (Constitution and Rules of Procedure) Regulations 2013 therefore not being feasible on the papers,

    And upon it consequently being in the interests of justice for there to be a hearing under Rule 72(2)",

    Direction 3: "At the reconsideration hearing, the judgment may be confirmed, varied or revoked. If it is revoked, the re-hearing of the case will follow immediately, and both parties should come prepared to call their evidence and present their case".

The hearing

12. The following attended in person on behalf of Miss Howe: Mr. Crawford as counsel and Miss Howe as claimant. The following attended in person on behalf of the respondent: Mr. Baker as counsel and his instructing solicitor, Miss Chowdhury.

13. I explained at the outset that the hearing would be divided into two stages:

    13.1 stage 1 submissions from the claimant and respondent as to why respectively it was or was not in the interests of justice to reconsider the decision. There would be a break in order to make a decision after which there would be delivery of an oral judgement.

13.2 stage 2 If I decided that it was necessary in the interests of justice to reconsider the decision, only then would submissions follow on whether the decision should be confirmed, varied or revoked. This would include identifying what new findings, if any, should be made and submissions should cover how the decision might be taken again or not.

14. My judgment after stage 1 was that it was necessary in the interests of justice to reconsider the decision. As this part of the decision was not reserved and Mr. Baker made it clear at the end of the hearing that he would not be seeking written reasons at any time, I do not give my reasons here as to why I decided that I would reconsider the (original) decision.

15. After stage 1, Mr. Baker requested and was granted an hour's break in order to take instructions. Mr. Baker then proposed that instead of hearing submissions on what reconsideration should result in, there were other paths which I should more properly follow such as listing of the case for a fresh hearing on the issue of liability. Mr. Crawford opposed this proposal. Having taken account of both submissions and the overriding objective in rule 2 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013, I did not consider it appropriate to follow the same course as would have happened had the case been successfully appealed to the EAT and remitted for a fresh hearing. This would have entailed considerable cost for both parties and all the necessary evidence was before the tribunal, either in the original bundle, witness statements or the record of proceedings.

16. Stage 2 then followed. I reminded both counsel that I needed to hear submissions:

16.1 why the first appeal conducted by Mrs. Allport was fair or unfair. Mr. Crawford had submitted (in the reconsideration application submission) that it was unfair in respect of:

16.1.1 Mrs. Allport's misconceived understanding of the purpose of the appeal hearing;

16.1.2 Her failure to resolve inconsistency between the written evidence of a duty CC manager (Miss Slark) [319-324] and an operations manager at JFK airport in NY (Mr. Manswell) [HB pages 340 - 342].

16.1.3 MA's comment in her letter about length of service as mitigation and her response in cross examination, showing a misunderstanding of how length of service could mitigate.

16.1.4 examination of the Crew History Log (also known as the "Crew History Report") after the hearing, and reference to 3 alleged incidents in it in the outcome letter, without the claimant having been given any opportunity to comment on it.

16.2 Whether Mr. Rickwood's appeal cured any unfairness or not, in the event of my finding Mrs. Allport's appeal to be unfair;

16.3 The impact of Mr. Rickwood's appeal on the overall fairness of the decision to dismiss.

Law applicable to an appeal

17. **Mirab v Mentor Graphics UK Limited** UKEAT/0172/12/DA and in particular §s51 – 54 explains the importance of the appeal in the overall assessment of fairness.

§51 "I start with the first ground of appeal and the question of fairness, taking into account the internal appeal in this case. It is not really in dispute that the ET was wrong to state, as it did in the last sentence of paragraph 31, that the appeal was "*only relevant if the original process was unfair*". That failed to recognise the part that the appeal process plays in the overall determination of fairness (see **Taylor v OCS**) and it was simply wrong as a matter of law (see **Tipton** and **Tarbuck**).

§52. The Respondent urges that the ET's findings on the appeal - that it was superficial and failed to bring any independent judgment to the process - have to be seen in context: (1) as against the limited nature of the Claimant's internal appeal; and (2) given the ET's very full findings on all other points on fairness and, specifically, on the points raised in the internal appeal.

§53. Those are fair observations but I do not consider that I can ignore the ET's erroneous self-direction in this case. First, because, although the ET has recorded only limited grounds of appeal being raised by the Claimant at paragraph 14.44 of its findings of fact, it would seem that there was some expansion of those points during the course of the telephone appeal hearing (see the ET's findings at paragraph 14.45) and I do not consider I can simply assume that the broader points rejected on the appeal did not potentially raise matters that might have affected the outcome (for example, as to whether the Claimant should have been compared with Account Managers outside the UK). In the circumstances, there was thus an issue before the ET - raised as part of the overall assessment of the fairness of the dismissal - as to whether the Claimant had been unfairly denied the opportunity of showing that redundancy was an insufficient reason for his dismissal in the circumstances of this case. I return to the issue of UKEAT/0172/17/DA-20 alternatives to redundancy when addressing the second and third grounds of appeal below, but, on this first point, I do not think it could be said that the appeal was not relevant to fairness in this case because nothing raised by the Claimant on the internal appeal could, given the ET's own findings, have made any difference to the outcome. To adopt such an approach would, in my judgment, be contrary to **Tipton** and **Tarbuck**, and more generally to the approach laid down in **Polkey**.

§54. I reiterate, the appeal is part of the overall process in any dismissal and thus relevant to the ET's determination of fairness. A specific part of the process might be unfair but cured by other aspects; usually the appeal itself will perform that function, but, where it is the appeal that gives rise to an unfairness in the process, that is a matter that is relevant to the ET's

assessment. I do not go so far as to say it will always, or inevitably, lead to a finding of unfair dismissal -that would be to usurp the assessment of an ET on the facts of any particular case - but it is a relevant matter and it is an error of law to simply exclude it from consideration. On this point, I am satisfied that the ET thus erred in its approach and I therefore allow the appeal on ground 1.

18. **Mirab** refers to the EAT case of **London Central Bus Company Ltd v Manning** UKEAT/0103/13/DM. Clark HHJ held: "*whilst the conduct of the internal appeal process is relevant to the overall question of fairness under s.98(4), the question is whether the procedural defect denied the claimant an opportunity to show that the reason for dismissal was insufficient. It was plain that the claimant had not been denied any opportunity and that showing him the list at the hearing would have been "utterly futile*". He added that "*the mere fact of that procedural failing, if that is a correct characterisation, cannot displace the fairness of the original dismissal*."

Findings of fact

19. I make my findings of fact on the balance of probabilities taking into account all of the evidence, both documentary and oral which was admitted at the original hearing and the various oral and written representations, responses and closing submissions of both counsel on liability and the reconsideration application. I do not set out in this judgment all of the evidence or submissions which I heard or read but only my principal findings of fact, those necessary to enable me to reach conclusions about reconsideration and its implications original decision.

Did Mrs. Allport correctly understand the purpose of the appeal?

20. Mrs. Allport took the view that an appeal hearing which was a review meant that if Miss Howe did not raise new evidence on a ground of appeal, that ground was rejected [see §s23 – 24 of her witness statement].

21. Mrs. Allport consistently expressed this view:

    21.1 In her introduction to the appeal hearing, Mrs. Allport emphasised the need for new information [HB 454 "*This meeting is your opportunity to explain your grounds of your first appeal and to present new information you would like me to consider"*].

    21.2 In the appeal hearing, Miss Howe was unable to present new evidence for any of her appeal grounds.

    21.3 In her outcome letter [HB 480 – 487], Mrs. Allport rejected Miss Howe's appeal against all the allegations (A – F), on the basis of no new evidence having been presented:

        21.3.1 "*This has already been considered and is not new evidence. Therefore I do not consider this to be a valid point of appeal and I reject it".* [Allegation A HB 483].

21.3.2 "*There is no new evidence related to the situation for me to investigate and as such I reject this point of* appeal" [Allegation B HB 485].

21.3.3 *"There is nothing new for me to consider regarding these observations and they have been considered fully by the hearing manager. Therefore I do not consider this to be a valid point of appeal and as such I reject it"* [Allegation C HB 486].

21.3.4 *"There is no new information for me to consider. The above has already been considered by the hearing manager. Therefore I do not consider this to be a valid point of appeal and as such I reject it"* [Allegations D & E HB 486].

21.3.5 *"The above has already been considered by the hearing manager….As a result, I have decided to reject this point of appeal".* [Allegation F 487].

21.4 I accept §8 of Mr. Crawford's (written) submission in support of this application that Mrs. Allport was asked 7 questions on this topic in cross examination. Mrs. Allport's answers essentially made the same point. I quote two examples of her answers:

21.4.1 *"All of the information had been presented and discussed at previous stages. There was nothing for me to further investigate or review".*

21.4.2 "*It doesn't mean that I did not review the decision. There was no new evidence that could have been added to have formed a new view".*

21.5 This meant that Mrs. Allport made no findings about Miss Howe's grounds, save to reject them with the reason that this was a review and no new evidence had been provided.

21.6 This was a procedural defect.

Conclusions about Mrs. Allport's understanding

22. I find that it was not open to a reasonable employer to understand the purpose of a review appeal hearing in the way Mrs. Allport did because:

22.1 She adopted an extremely narrow approach such that she considered very little.

22.2 This procedural defect denied Miss Howe an opportunity to show that the reason for dismissal was insufficient

Resolution of inconsistency between evidence of Miss Slark and Mr. Manswell

23. Miss Slark was a material witness in the allegation concerning breach of Covid procedures and in particular whether Miss Howe had discharged herself on her own initiative or whether she had been instructed to do so. This allegation is somewhat more complicated than I note here, but the detail is in my liability judgment and it is not necessary for these purposes to refer to all the strands of the allegation. The key point is that Miss Slark was the duty cabin crew manager and made notes in the Crew History Log that Miss Howe

had not followed instructions for arrangements made for her to leave the hospital in New York, but had followed her own inclinations. Miss Slark had provided a statement for the purposes of the investigation by Mr. Cannon. Miss Slark said that Mr. Manswell advised her with whom to liaise at the hospital, following Miss Howe's discharge. Mr. Manswell had also provided a statement in which he denied being aware that Miss Howe had been discharged from the hospital.

Conclusions about inconsistency between Miss Slark and Mr. Manswell

24. I find that it was open to a reasonable employer to fail to reconcile the inconsistencies between the written evidence of Ms. Slark and Mr. Manswell because:

    24.1 neither Miss Slark nor Mr. Manswell were interviewed by the investigating officer, Mr. Cannon.
    24.2 Their statements were relatively brief.
    24.3 Mrs. Allport concluded that there were no inconsistencies between Miss Slark and Mr. Manswell because Mr. Manswell would not have been aware of follow up. The duty of care to follow up was on a different operations manager (Mr Lambert).
    24.4 On the basis of what had been written, Mrs. Allport's interpretation of the written evidence is within the range of reasonable responses.

Mrs. Allport's application of length of service to mitigation

25. Miss Howe asked Mrs. Allport to take account of her 36 years of service on two grounds:

    25.1 Mr. Shirley had not taken it into account, or if he had, he had not given it sufficient weight.
    25.2 Dismissal was too harsh a sanction in light of her long length of service.

26. Mrs. Allport's conclusion is at HB 484:

    "*I am satisfied that regardless of your length of service, the sanction would not have differed for an employee of less experience*".

27. It was put to Mrs. Allport in cross examination that what she said appeared to be a complete misunderstanding about what Miss Howe had asserted. Mrs. Allport maintained her position.

28. I find that Mrs. Allport's conclusion in the outcome letter represented her view since she repeated this under cross examination. To say that a claimant would have received the same sanction if she had had less length of service, demonstrates that Mrs. Allport had misunderstood the role of length of service in mitigation. This is a procedural defect.

Conclusion concerning Mrs Allport and mitigation

29. It was not open to a reasonable employer to construe and apply mitigation regarding length of service as Mrs. Allport did because:

    29.1 it was illogical to compare Miss Howe to an employee with a shorter length of service. In this context, it would only have been appropriate to compare Miss Howe to an employee with greater length of service.

    29.2 Such a misunderstanding is extensive and this procedural defect denied Miss Howe an opportunity to show that the reason for dismissal was insufficient.

Previous allegations in Crew History Log

30. After the appeal hearing, Mrs. Allport looked through the Crew History Log to look at Miss Howe's past performance, including conduct. She said in cross examination, that Miss Howe had asked her to look for good performance and commendations. She stated in her outcome letter:

    "When reviewing your file from now until June 2019, while I found one customer group compliment and one group Bravo award it should be noted that there are also three behavioural incidents displayed which would have caused concern and were brought your attention at the time, from June 2019. To date, three such incidents highlight inappropriate language and comments towards British Airways managers and external providers i.e. HAL security. Although these incidents have not been taken into account in determining the outcome of this case, they do share a similar lack of understanding and ownership for your actions " [HB 487-488].

31. These three "behavioural incidents" were recorded as follows:

    31.1 17 June 2019 11:40 *"Alexandra was stopped at CRC Security before operating BA263/RUH. Two tubs of humous, a tub of cream cheese and two ice packs were confiscated. ICTS FK overheard comments made by Alexandra around "Indian people are dirty" and advised that she was carrying these items due to a health condition and that it would be her fault if anything happened to her, and that she should turn a blind eye. ICTS will be submitting a formal report"* [HB 835].

    31.2 2 November 2020 14:01 (From Miss Howe) "*Hi Victoria, can you shed some light on this nonsense that my manager, Anderson, is still on furlough. What the hell is systems access review…yes my manager did my review sometime in January 2020. I get a feeling this is a spoof email. Please let me know what I'm supposed to do other than delete it* ". (From "Victoria") "*Hi Alexandra… I'm disappointed at what I believe is the inappropriate tone and language in this email. I am aware that Anderson has spoken to you about this in the past and I am disappointed to see this continues*" [HB 843-844].

    31.3 7 November 2020, 08:37 "*called to Crew security as Alexandra had been rude to staff as she had 150 ml of liquid in her plastic bag. She stated she had been carrying this for six months and was advised that if*

she had a medical letter then they could letter her through with it. When I spoke to her, she said she carried it for detox purpose and did not eat on the aircraft and would have to offload herself, to which I replied I would do so. She then changed her mind and decanted liquid into a smaller bottle. She then walked off stating loudly, "thank you for the inconvenience". This will be passed to fleet when she arrives home on Monday" [HB 846].

32. In cross-examination, it was Mrs. Allport's evidence that she had seen the notes about these behavioural incidents but had not taken them into account. Mrs. Allport said in cross-examination that:

    32.1 the comment on 17 June 2019 "Indian people are dirty" was "*racist. She said she always behaved professionally at work. When I saw those three elements, I felt I needed to make a reference to these in my outcome letter*". Mrs. Allport clearly considered that this behavioural incident involved a "racist" comment.

    32.2 "*I believed that the comment captured accurately what Miss Howe said at the time*".

    32.3 *"I do not know if those incidents had been brought to Miss Howe's attention and I don't see the relevance".*

    32.4 "*These incidents and those in January 2021 shared a similar pattern of behaviour and expression*".

33. I find that Mrs. Allport's conduct in relation to the racist comment alleged to have been said on 17 June 2019 was a procedural defect:

    33.1 Mrs. Allport considered that all the allegations, including this one, in the Crew History Log were accurate in content and had been drawn to Miss Howe's attention. First, although an intention to take the matter further with Miss Howe was evinced for two incidents, there was no evidence in the Crew History Log or anywhere that this had happened. Mrs Allport in later cross-examination accepted that there was no evidence that any of these three allegations had ever been put to Miss Howe or taken further in any sense. Secondly, I found in the liability judgment that the Crew History Log was unreliable at times. Even if Mrs. Allport was not aware of its unreliability at the time, she should have checked the accuracy by some other method, and she did nothing. She should also have checked whether each behavioural incident had been drawn to Miss Howe's attention. She did not.

    33.2 I find that Mrs. Allport did place weight on the behavioural incident on 17 June 2019. The reported comment at HB 835 was clearly racist and would, as such, have been indelibly marked on Mrs Allport's consciousness. Given that two of the allegations before Mrs. Allport concerned allegedly racist comments, it is more likely than not that a discovery of what she considered an accurate report of a racist comment in the past would have appeared to her as highly relevant.

33.3 Mrs. Allport should have shown the record of these behavioural incidents to Miss Howe, such that Miss Howe was aware of the content of the entries in the Crew History Log and the nature and terms of racist or inappropriate comment(s) attributed to her before making a final decision. She did not.

33.4 Mrs. Allport should have sought Miss Howe's comments before making a final decision. She did not.

33.5 The first reference to these behavioural incidents was in Mrs. Allport's outcome letter.

Conclusions about Mrs Allport and allegations in the Crew History Log

34. I find that it was not open to a reasonable employer to refer to and rely on any of the behavioural incidents referred to in the Crew History Log, in particularly the clearly racist comment, as Mrs. Allport did because:

34.1 Mrs Allport relied on these allegations.

34.2 Miss Howe had no chance of raising any argument or objection to Mrs Allport's referring to and relying upon these allegations.

34.3 This procedural defect denied Miss Howe an opportunity to show that the reason for dismissal was insufficient.

Final Stage appeal by Mr. Rickwood

35. There was almost no detail in the written submissions of Mr. Crawford or Mr. Baker as to why they maintained the position that respectively the final stage appeal was unfair/fair and did not cure/cured any flaws with the first appeal. I therefore specifically asked both counsel to elaborate and asked questions of each during their submissions.

36. At this hearing, I asked Mr Crawford to identify all the ways in which he submitted that Mr Rickwood's appeal was unfair.

37. Mr. Crawford submitted that Mr. Rickwood's appeal was unfair because he, as a senior manager, should have noticed of his own accord that Mrs. Allport's record of appeal made no reference to past allegations (in the Crew History Log), but that her outcome letter did. He should therefore have realised that Mrs. Allport referred to alleged instances of misconduct in the outcome letter without having allowed the claimant an opportunity to comment on them.

38. I do not accept that Mr. Rickwood's appeal was unfair in failing to consider this procedural defect in Mrs. Allport's appeal because:

38.1 It was not one of Miss Howe's grounds of appeal to Mr. Rickwood. Mr. Crawford accepted this but argued that in essence, I should ignore this and treat it as a ground of appeal. In his submission, Miss Howe had no legal advice and considered that she must put in new grounds of

appeal, different to those which she had brought to the attention of Mrs. Allport.

38.2 I can recognise that the appeal process was difficult and stressful for Miss Howe as it would be for anyone but she is an intelligent and experienced individual. In addition, I note that Miss Howe's trade union representative, Mr Breslin, attended the final stage appeal hearing [HB 515]. He had also attended the first appeal hearing [HB 464].The entire purpose of setting out the grounds of appeal is to alert the appeals officer (i.e. Mr. Rickwood) to that which Miss Howe wanted him to consider. Miss Howe did provide grounds of appeal for Mr. Rickwood [dated 30 June 2021 at HB 490 – 491] but they did not include this.

38.3 Mr. Rickwood set out his understanding of his role in his introduction, identifying three elements [HB 515]. He stated that he must consider if a reasonable process had been followed, identify any procedural shortcomings and consider any new evidence and its impact. He could, however, only carry out these three elements in relation to grounds of appeal. It is open to a reasonable employer to confine themselves to the grounds of appeal.

38.4 It has also been submitted that Mr. Rickwood should have considered length of service, but this was also not in the grounds of appeal. I have not been directed to any other source of unfairness.

38.5 To act fairly, Mr. Rickwood needed to consider all the grounds of appeal put before him in writing and I am satisfied that he did.

Summary of Conclusions concerning reconsideration application

39. I have reconsidered my findings and conclusion about the first appeal. I find the first appeal was unfair, as set out above.

40. I therefore vary my liability judgment (also referred to as the original judgement) at §86.

41. Mr Crawford raised issues of procedural fairness with the first appeal hearing (albeit not with the investigation or disciplinary hearing). The investigation and disciplinary hearing complied with the ACAS code of practice, but I conclude that the first appeal hearing did not because of the procedural defects explained above.

42. Furthermore, I find that the conduct of the first appeal was not within the range of reasonable responses in respect of Mrs. Allport's approach to the purpose of the appeal hearing, length of service as mitigation and use of the behavioural incidents in the Crew History Log.

43. Had there not been a final stage appeal, I would have substituted §129 and found that the dismissal was not fair in all circumstances.

44. As there was a final stage appeal, I must therefore next consider the impact of that final stage appeal on section 98(4) of ERA 1996 in order to decide whether the conclusion from the original judgment is revoked or not.

45. Mr. Rickwood's appeal was fair and within the range of reasonable responses for the reasons set out above.

46. For this reason, I do not revoke my original conclusion which therefore stands. The dismissal was fair in all the circumstances.

I confirm that this is my Reserved (Reconsideration) Judgment with reasons in Howe v British Airways Plc No: 3315889/2021 and that I have approved the Judgment for promulgation.

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Employment Judge Coll

Date: 4 June 2024

Sent to the parties on: 5 June 2024

For the Tribunal Office