EMPLOYMENT TRIBUNALS
London South Employment Tribunal

Claimant: Nkechi Leeks

Respondent: University Hospitals Sussex NHS Foundation Trust

Decision

Rules 70-72 of The Employment Tribunals Rules of Procedure 2013 (as amended)

JUDGMENT having been given in writing on 13 April 2024 and sent to the parties on 16 May 2024;

AND UPON the Claimant sending an application for reconsideration to the Tribunal which was received at 23:58 on 30 May 2024;

AND UPON that application being, therefore, received just prior to the expiry of the time limit for making such an application (by two minutes);

IT IS ADJUDGED that **the application for reconsideration** made by the Claimant is of no greater merit than her claim and it **is refused as there is no reasonable likelihood that our judgment would be varied or revoked**.

Reasons

Background

1. The Claimant is Mrs Nkechi Leeks, a 59-year-old Nigerian woman. The Respondent is University Hospitals Sussex NHS Foundation Trust, an NHS hospital trust operating in the Sussex region.

2. In July 2017, the Claimant applied for a Housekeeping Assistant role advertised by the Respondent. She was interviewed on 31 August 2017 and offered the position conditionally, subject to satisfactory pre-employment checks.

3. The Respondent requested references from the Claimant's previous NHS employers. These revealed she had been dismissed by King's College Hospital NHS Foundation Trust on 20 July 2017 following disciplinary proceedings.

4. Information showed the Claimant was struck off the register of the Health and Care Professions Council (HCPC) in 2015 for at least 5 years. This resulted from her accessing confidential staff files without authorization while employed by St George's Hospital in 2011, leading to her dismissal.

5. The Claimant disclosed her 2017 dismissal and the HCPC strike off in a pre-employment declaration form on 31 August 2017. However, her original job application of 29 July 2017 still listed King's College Hospital as her current employer and did not mention that dismissal.

6. In September and October 2017, the Respondent tried to arrange required occupational health assessments for the Claimant, but she did not attend the appointments.

7. On 29 November 2017, the Respondent wrote withdrawing the conditional job offer due to unsatisfactory references and pre-employment checks. Between November 2017 and June

2018, the Claimant applied unsuccessfully for four other roles with the Respondent.

8. In July 2018, the Claimant lodged an employment tribunal claim alleging discrimination in relation to the withdrawn offer. The Respondent maintained it withdrew the offer for legitimate reasons based on issues revealed through pre-employment checks and references.

9. There was some case management and procedural history which had led this claim to the Employment Appeal Tribunal on a previous occasion; this was not relevant for our purposes.

This application for reconsideration

10. On 30 May 2024, the Claimant applied for the Tribunal reconsider the reserved judgment issued on 16 May 2024. The application was made within 14 days of the judgment being sent to parties as required under Rule 71 of the Employment Tribunal Rules of Procedure 2013. It is therefore lodged validly in time.

11. In her application, the Claimant seeks reconsideration and revision of the Tribunal's unanimous judgment which dismissed her claims, in their entirety, as being an abuse of process and totally without merit.

12. She disputes the judgment as not based in law or facts. The Claimant sets out 38 numbered paragraphs outlining various grounds said to warrant reconsideration. No additional evidence is put forward.

13. The application focuses on reiterating the Claimant's position and disagreements with the Tribunal's conclusions. It does not identify any specific errors of material fact or law in the judgment.

14. The Claimant asserts the judgment wrongly states she sought to relitigate past hearings, when she argues she only pursued issues related to her present claim. She also suggests the judgment contains incorrect references to certain medical conditions.

15. In summary, the application seeks a reversal of the judgment dismissing the claims but does not produce new evidence or identify established grounds for reconsideration. It is based on the Claimant's continued disagreement with the outcome.

The law

16. Rules 70-73 of The Employment Tribunals Rules of Procedure 2013 (as amended) provide the legal framework for reconsideration of Employment Tribunal (ET) judgments.

17. Rule 70 states that an ET may reconsider a judgment on its own initiative or upon application of a party, where reconsideration is necessary in the interests of justice. The original decision may then be confirmed, varied or revoked.

18. Under Rule 71, except during a hearing, an application for reconsideration must be made in writing within 14 days of the written record of the original decision being sent to parties. The application must explain why reconsideration is necessary.

19. Rule 72(1) requires the ET to consider any reconsideration application. If there is no reasonable prospect of varying or revoking the original decision, including where a similar prior application was refused, the application shall be refused and parties informed.

20. Otherwise under Rule 72(2), the ET shall notify parties, seek their views on whether a hearing is needed, and reconsider the decision at a hearing unless unjustified. Without a hearing, parties can make further written representations.

21. Rule 73 provides that where the ET proposes reconsidering a decision on its own initiative, it must notify parties of the reasons and then follow the process in Rule 72(2).

22. In summary, the Rules permit reconsideration of ET judgments either upon application within

14 days showing it is in interests of justice, or by the ET's own initiative.

23. The ET must consider applications, allow party views on a hearing, and hold a hearing unless unjustified, reconsidering the original decision which may then be confirmed, varied or revoked.

24. This robust process ensures reconsideration occurs only where properly justified, balancing finality with flexibility to revisit decisions when essential in interests of justice.

25. The legislation requires a stringent test be met for reconsideration, with the ET carefully assessing whether that high threshold is satisfied.

26. A leading modern authority on reconsideration is EAT case *Outasight VB Limited v Mr L Brown [2014] UKEAT 0253_14_2111*. This held the approach in civil litigation case *Ladd v Marshall [1954] 1 WLR 1489* continues to encapsulate the interests of justice test for fresh evidence under the ET Rules.

27. *Ladd v Marshall* established four criteria for admitting fresh evidence: (a) it could not have been obtained with reasonable diligence for the original hearing; (b) it must be relevant and credible; (c) it would probably have an important influence on the result; and (d) it must be apparently credible.

28. The EAT in *Outasight* held the 2013 ET Rules did not substantially change the principles or interests of justice test for reconsideration. The *Ladd v Marshall* criteria will apply in most fresh evidence cases with discretion to depart in exceptional circumstances.

29. The interests of justice encompass finality in litigation and avoiding “second bites at the cherry” per *Outasight*. Reconsideration based on arguments parties could have raised originally is rarely justified given the public interest in finality.

30. *Flint v Eastern Electricity Board [1975] ICR 395* confirmed ETs have discretion under the interests of justice to allow fresh evidence where Ladd v Marshall is not strictly met, but mitigating circumstances prevented obtaining it earlier.

31. *General Council of British Shipping v Deria [1985] ICR 198* EAT held the mitigating circumstance must relate to the failure to obtain the evidence, not just be in the wider interests of justice.

32. *Newcastle City Council v Marsden [2010] ICR 743* EAT confirmed continuing relevance of *Flint* principles on finality in litigation. Article 6 fair hearing issues could potentially also arise.

33. Further principles are derived from *Ebury Partners UK Ltd v Mr M Acton Davis [2023] EAT 40*.

34. *Ebury Partners* concerned an EJ's reconsideration of his original judgment dismissing the claimant's claims. The EAT held the EJ erred in law by reconsidering as the claimant was essentially seeking a 'second bite of the cherry' on a contractual interpretation point.

35. The EAT confirmed the interests of justice allow reconsideration only where strictly necessary. There is a strong public interest in litigation finality, so parties cannot reopen matters they had a fair chance to argue originally.

36. On interpreting contracts, parties must advance arguments supporting their preferred construction. An EJ can reach their own view on proper interpretation in the absence of such submissions.

37. Failing to make arguments on contractual interpretation at the original hearing does not generally deprive a fair opportunity to present one's case. The proper recourse is an appeal on a point of law.

38. When considering reconsideration applications, EJs must assess the interests of justice

including finality. They cannot just reconsider without considering the wider principles.

39. Reconsideration is not justified by an EJ reaching new conclusions on evidence available for the original judgment. This undermines finality.

40. Applications to reconsider should specify which decisions the party invites the Tribunal to revisit. EJs cannot reconsider other unrelated aspects unilaterally.

41. The EAT held the EJ in Ebury erred by reconsidering for misconceived reasons. His failure to properly assess the interests of justice in allowing 'a second bite' was an error of law.

Documents considered

42. In assessing the application for reconsideration, I have reviewed the documentary evidence bundle from the hearing, including:

    a. The Claimant's ET1 claim form outlining her allegations of discrimination.

    b. The Respondent's ET3 response form denying the allegations.

    c. Medical evidence, job application, correspondence, recruitment records.

43. I have also looked again at the witness statements and oral evidence of the Claimant, Ms Sims and Mrs Thorpe from the hearing. Alongside this I have considered the material to which we were referred from the extensive hearing bundle.

44. I have carefully reconsidered the parties' written submissions, as well as the Claimant's own lengthy statement which was more in the nature of a random and discursive narrative.

45. Moreover, I have revisited the notices, orders, and judgments produced during these Tribunal proceedings when reaching my decision on the reconsideration request.

46. The Claimant's 30 May 2024 application sets out her grounds for reconsideration but does not furnish any new evidence. She relies on existing documents already before the Tribunal.

47. In assessing whether to revisit the judgment, I have focused closely on the evidence, submissions, and procedural documents from this claim. The Claimant presents no new material for consideration, simply seeking re-argument of matters already dealt with based on the same documents previously scrutinised.

Grounds raised and findings

"The Claimant never sought to have a review of past HMCTS hearing, contrary to assertions in certain paragraphs of the 24 April 2024 reserved Judgment that was sent to the parties on Thursday 16 May 2024." (sic)

48. The Claimant contends the judgment wrongly asserts she sought to re-litigate past hearings, when her focus was pursuing present claims against this respondent. However, the judgment makes no explicit finding she directly sought to formally challenge previous decisions. Rather, it concludes from her conduct and submissions that she impermissibly attempted to undermine settled rulings collaterally, not directly attack them. This distinction is made clear at paragraph 67 of the judgment.

49. The Claimant's repeated references to her past dismissal and professional sanctioning matters, which bore little relevance to her present claim against this respondent, evidenced an improper purpose of seeking to discredit those final decisions. The judgment rightly concludes the claimant engaged in unacceptable litigation conduct that constituted an abuse of process. This ground alleging the judgment misstates her purpose lacks merit.

50. In summary, the judgment does not assert the Claimant directly sought to overturn previous decisions. It makes sustainable findings that through her conduct of the present claim, she improperly sought to undermine settled rulings – she expressly stated as much during the

hearing. This ground alleging that our judgment mischaracterizes her purpose is entirely without merit.

"The issues to be determined by the Tribunal at the Full hearing were all/ and or are all clearly set out in the party's most recent PHR prior to the Full hearing of 08 April 2024 – 12 April 2024." (sic)

51. The claimant contends the issues to be determined were clearly defined at the final case management hearing prior to the full merits hearing. However, the judgment does not suggest any issue was decided that fell outside the scope of matters case managed and agreed by the parties.

52. Simply because issues were identified in advance does not preclude the Tribunal from drawing reasonable inferences about the claimant's underlying purpose based on conduct and submissions during the final hearing itself. The judgment makes findings on the claimant's apparent agenda to undermine past rulings, despite this not being a defined issue per se.

53. The case management process does not rigidly restrict the Tribunal's assessment of issues arising during the full hearing, including any abuse of its process. The list of issues has the status of a guide, not a binding pleading. The judgment makes sustainable inferences regarding the claimant's motives and conduct. Her disagreement with the Tribunal's conclusions does not demonstrate any procedural error or that the judgment strayed beyond properly defined issues. This ground is therefore entirely without merit.

54. In summary, the judgment reached reasonable conclusions about the claimant's litigation misconduct based on evidence at the full hearing. The case management process did not prohibit or invalidate those findings. This ground raising a procedural objection is unfounded.

"Additionally, Claimant's ET1 Statement of Claim, clearly set out, the claimant's reasons for bringing the above ET claim against the Respondent, all of which reasons fall within the Jurisdiction of the HMMCTS Employment Tribunals. Claimant's ET1 Form and SOC, clearly stated Claimant's Protected characteristics of Age, Disabilities, Religious Minority, and History of Raising a concern in Previous NHS Employment." (sic)

55. The claimant contends her ET1 claim form clearly set out allegations falling within the Tribunal's jurisdiction. However, the judgment does not dispute the Tribunal's jurisdiction over the claims pleaded. Simply asserting jurisdiction does not mean the claims succeeded on their merits.

56. The judgment considers and dismisses each discrimination allegation based on the lack of credible evidence presented at the full hearing. Moreover, it finds the claims were pursued for the improper purpose of trying to undermine past lawful decisions, amounting to an abuse of process.

57. The claimant's assertion regarding jurisdiction misses the real reasons her claims failed - both lack of evidence and abuse of process. The Tribunal unquestionably had power to hear the pleaded complaints. This ground disputing jurisdiction is misguided. The claims were dismissed because of evidentiary shortcomings and litigation misconduct, not doubt over jurisdictional competence. This ground is therefore entirely without merit.

58. In summary, the judgment dismissed the claims for lack of evidence and abuse of process, not lack of jurisdiction. The Tribunal's power to adjudicate the pleaded matters is not in doubt. This ground fails to acknowledge the real deficiencies causing dismissal and is unfounded.

" The Respondent's statement of defence and or the Respondents Grounds of Resistance is/ and or was also clearly outlined in the Respondent's ET3 –GOR, in the above HMCTS proceedings, all of which aforementioned Respondent's Grounds of Resistance, fall within the Jurisdiction of a UK HMCTS Employment Tribunal." (sic)

59. The claimant contends the Respondent's grounds of resistance in its ET3 response fell within the Tribunal's jurisdiction. However, the judgment does not dispute the Tribunal had jurisdiction over the pleaded responses. It dismisses the claims based on the claimant's litigation

misconduct and evidentiary failures, not any jurisdictional issue.

60. The judgment finds the claims were pursued improperly to undermine past rulings on unrelated matters against other parties. The claimant relied on wild allegations without credible evidence. Her conduct amounted to an abuse of process, rather than a genuine pursuit of the pleaded claims on their merits.

61. The Respondent's defences were properly raised and within jurisdiction. But the claims failed because of the claimant's improper purpose, litigation misconduct and lack of evidence - not any jurisdictional constraint regarding the ET3. The judgment is clear the claims were dismissed on their merits, or lack thereof. This ground contesting jurisdiction is misconceived and entirely without merit.

62. In summary, the judgment dismissed the claims for abuse of process and lack of evidence rather than lack of jurisdiction over the ET3 defences. The Tribunal's power to hear the response is not in doubt. This ground fails to acknowledge the real deficiencies in the claimant's case warranting dismissal.

"Following success at a job interview with the Respondent's, the Claimant was made a conditional offer of employment of Zero Hours Contract, Bank Band 1 – House Keeping Assistant subject to Satisfactory Pre-employment checks of References, DBS (Police CRB Checks), and Health (Occupational Health Checks by Occupational Health Clinicians (Doctors and Nurses).

The Respondent later withdrew, the aforementioned Conditional Job offer to the Claimant, asserting that in the period from that Claimant has thrice in the period from 2011 – 2017 been Struck off, a professional register and has also that the claimant has been thrice dismissed for various acts of Gross Misconducts including criminal conducts of committing Legally Mandatory UK Notifiable Offences, that included unauthorised break and entry into an NHS Data Act protected- NHS Staff Data room ((albeit located at different Postcode from the Clinical area wherein the claimant was working), for the purposes of stealing two NHS staff Files and consequently breaking the confidentiality of the Victims of the Crime, by allegedly discussing the contents of the Stolen Files files of those employees with an NHS Counter Fraud Officer, and additionally the claimant had also in July 2015 been struck off the HCPC Professional Register of Biomedical Scientists- in connection with the aforementioned alleged act of break and entry into an NHS DATA ACT protected HR file data room used for the Data act protected storage of about 8,500 Employees HR files." (sic)

63. The claimant asserts her discrimination claims relate to a conditional job offer being withdrawn after the Respondent learned of her past disciplinary and professional issues. However, the judgment does not dispute this factual backdrop.

64. The judgment concludes the withdrawal of the claimant's job offer was reasonable and justified based on the concerns raised during the Respondent's pre-employment checks. This includes her past dismissals, professional sanctions, and failure to properly engage with the required occupational health assessment process.

65. The judgment makes no finding that the Respondent acted improperly in rescinding the offer. Rather, it finds the claimant did not genuinely pursue her pleaded claims against the Respondent in good faith.

66. Throughout the hearing, the claimant focused obsessively on rehashing details of her previous dismissals and sanctions, rather than proving discrimination by this Respondent. Her aim was to discredit the past decisions, not pursue her claims.

67. The claimant relied on wild, unsubstantiated conspiracy theories of the Respondent plotting her murder. She provided no credible evidence of discrimination, only baseless smears against the Respondent and individuals. This amounted to an abuse of process.

68. In summary, the judgment addressed the fatal deficiencies in the claims and the claimant's egregious litigation abuse and total lack of evidence. The factual context of the reasonably

withdrawn job offer does nothing to rectify those flaws. This ground completely misses why her claims failed and is without merit.

"The Respondent also asserted that the Claimant had lied in Claimant's Job application form. The Respondent Specifically asserted that Claimant stated Claimant's employment period with King's College NHS FT as being from 15 Feb 2016- to- July 2017 instead of from 15 Feb 2016 – 20 July 2017.

The Respondent also asserted that the Claimant also lied in Claimant's 31 August 2017, pre-employment declaration form section concerning Claimant's Employment Period with St George's Healthcare NHS Trust. The Respondent's assert that when completing that section that involved Claimant's employment period of From April 2005 to- July 2011, that the Claimant had lied on the form by claimant's handwritten declaration, that stated that Claimant was dismissed in 2015 in the beginning first line of the declaration, and in the last line of the same declaration on the same section of the form, the Claimant had also hand written information, that stated that the Claimant was dismissed for Gross Misconduct on 21 July 2011." (sic)

69. The claimant contends the Respondent asserted she lied on her job application about her employment dates with two prior NHS trusts. However, the judgment does not rely on or make any finding regarding alleged dishonesty in her application.

70. The Respondent's witness gave limited testimony about noting discrepancies in employment dates during pre-employment checks. However, the judgment does not conclude these amounted to intentional dishonesty by the claimant.

71. Rather, the judgment finds the claimant pursued her claims improperly to undermine past rulings, without credible supporting evidence. Her conduct constituted an abuse of process regardless of the application issues.

72. The claimant failed to provide clear documentation refuting the alleged application discrepancies. But more fundamentally, she did not properly particularize or evidence her pleaded discrimination claims.

73. Whether or not she lied on her job application had no bearing on the judgment's core reasoning - that her litigation conduct abused the Tribunal process and her claims lacked evidentiary foundation.

74. In summary, the judgment does not rely on or make findings regarding alleged dishonesty in the claimant's job application. That issue is legally irrelevant to her claims' dismissal for abuse of process and lack of evidence. This ground focusing on the application discrepancies fails to address the real deficiencies in the claimant's pleaded claims which, along with her conduct of the case, warranted their dismissal. The ground is therefore misconceived and entirely without merit.

"The Respondent asserted that all of the foregoing misconducts of the Claimant, meant that the claimant posed an irredeemable danger to NHS patients ,and as such, on the 12 June 2018, the respondents wrote a letter to the Claimant, banning the Claimant from ever applying for jobs with the Respondent and thus imposing a life term ban on the claimant, which life term ban, the Respondent's witness described as the Trust's own List of Banned Applicants, as against the DBS Barred List of Job Applicants.

Hence, despite the fact, that Band1 – Bank- Cleaners/ House keepers role, does not require Professional registration, the Respondent's Legal representatives included in the bundle nformation of the 31 July 2015 HCPC struck off of Claimant's name from the HCPC register of Biomedical Scientist, which HCPC Struck Off of Claimant's name made mention of ET Judgment (specifically London South ET Judgment) in the ET Claim; Leeks v St George's Healthcare NHS Trust" (sic)

75. The claimant contends the Respondent should not have relied on her past misconduct and sanctions in withdrawing the job offer. However, it was entirely reasonable for the Respondent to consider her professional strike-off and the underlying confidential data breach in its hiring

decision.

76. If employers could not weigh facts of prior poor conduct unless formally recorded in a state register, references would lose all value. Individuals who committed offenses against a former employer could move on with impunity.

77. The recent strike-off and breach of data confidentiality, as well as information about her multiple dismissals from other NHS employers, were highly relevant facts for the Respondent to evaluate regarding the claimant's suitability. Ignoring such serious misconduct and employment history would create a perverse situation. Her misconduct was serious and recent.

78. The Respondent reasonably considered the claimant's short time since her sanction in deciding to withdraw the offer. It was rational to have concerns about privacy given her breach of confidential records/data.

79. In any event, the issue was whether the claimant proved discrimination by the Respondent based on the evidence in this case. The judgment found she failed to do so.

80. Her claims were dismissed because she did not evidence them properly, instead seeking to re-litigate her old professional sanction and other matters when their merits or lack thereof were not determinative here.

81. In summary, it was fully appropriate for the Respondent to consider the claimant's prior serious misconduct and recent HCPC strike-off in its hiring decision. The judgment dismissed her claims against this Respondent for litigation abuse and lack of evidence. This ground's attempt to critique the Respondent's reliance on facts of her past sanctions simply ignores why her recent claims failed. It is therefore misconceived and without merit.

"In refuting the Respondent's allegation, the Claimant cited the Rule of law /Acts/ Acts of Parliament, pertaining to Notifiable Offences, DBS referral procedures Home Office Act 1976 Right to work, Sentencing Act 2012, Rehabiltation of offender's act ,the Police Act 1976 Equality Act, DDA act, Public interest Disclosure Act, HMCTS-Cost guidance and EAT presidential guidance.

In Supporting the Respondent's Position, the Presiding Judge stated that there are no law(s) mandating that Victims of Crime must report the Crime.

In refuting the Judge's and the Respondent's views on the reporting of crimes, the Claimant reiterated the fact that there are notifiable offences (that must be reported to UK police, home office and by making a DBS referral), just like there are notifiable illness(that requires that a person afflicted with such an illness must need notify the relevant authority either to be quarantined and or to be monitored to prevent spreading, and that there are also notifiable incidents and or notifiable occurrences and if such were to happen within the NHS work space, that ther relevant NHS Authority is duty bound / (and has duty of candour) to report to NHS Safeguarding partners such Care quality commission, as happened in the case of Nurse Letby.

In refuting the Judge's and Respondent's view, the Claimant also noted, that there is a consequences for making false report to the police, and also that not reporting a crime, protects the criminal and not the victim.

In refuting the Respondent's assertionthat the Claimant was inherently irredeemably bad in character, the Claimant put it to the Tribunal and the Respondent, that the NHS recruitment agencies such as HR have a legal duty to report anyone suspected of having committed a notifiable offence to the Policee, DBS and or to the Home Office, and not doing so," (sic)

82. The claimant contends she refuted the Tribunal and Respondent's views by citing various notification laws. However, a reconsideration application cannot be used to re-litigate or reargue issues already decided at a hearing.

83. The judgment does not *support* the Respondent's position. It *finds that* their concerns regarding the claimant were reasonable based on the evidence.

84. The Tribunal found the claimant failed to prove her claims against this Respondent. Citing unrelated notification laws did not and does not change the evidence or conclusions.

85. Her, often unclear, citations of varied notification laws were irrelevant to her claims.

86. Rather than properly evidencing her claims, she sought to rehash matters from old proceedings against other parties. This was an abuse of process. Raising them again now is not a valid challenge to the judgment.

87. The Tribunal's findings of fact are not open to refutation via a reconsideration application. The claimant improperly attempts to use this process to re-litigate settled issues, showing her misconceived approach.

88. Laws on notifiable offenses, checks, and reporting had no bearing on this case between this Claimant and this Respondent, however much she wanted to make that the case. The judgment dismissed her claims for abuse of process and lack of evidence. Her claims were totally without merit.

89. Again, citing notification requirements, which had no bearing on the alleged actions of the Respondent, does nothing to rectify the fatal flaws that warranted dismissing her claims – not least her inability to provide evidence which led to a lack of proof. Her assertions are entirely misguided.

90. In summary, the Tribunal found the Respondent's position reasonable on the actual evidence. The reconsideration process cannot overturn settled findings of fact. This ground reflects the claimant's improper attempt to re-litigate using these proceedings, demonstrating her misconception of the purpose and limits of reconsideration. It is therefore wholly without merit.

"The Claimant showed the Tribunal irrefutable evidence that the Claimant had undergone OH clearance with an OH nurse,and that the claimant had also sent Claimant's immunization records to the OH Nurse. The Claimant hereby recalls that it was the unauthorised access of Claimant's OH immunization records by the Respondent's HR , that was one of the factors that led to claimant's lodging of Claim 23020701/2019 and 23020702/2019 against the same and one Respondent in the above proceedings."

91. The claimant contends she provided irrefutable evidence of undergoing occupational health clearance and submitting immunization records. However, the judgment makes no such finding. She did not produce any direct evidence, only unsupported inferences. Even if she had spoken to a nurse, that was not what the Respondent required of her as part of the Occupational Health assessment in her pre-employment checks.

92. In contrast, the Respondent provided detailed documentation. The judgment found the claimant failed to properly engage with required health assessments for the role by not attending appointments in Brighton. Her expectation that she would have relocated if appointed was unrealistic.

93. The Respondent appropriately considered her failure to follow their procedures in deciding to withdraw the job offer.

94. Rather than properly evidencing her claims, the claimant improperly sought to re-litigate collateral issues from past proceedings and to make wild and unsubstantiated allegations that either the Respondent or its witnesses were attempting to lynch her. This constituted an abuse of process.

95. The judgment dismissed her claims based on litigation misconduct - pursuing them to undermine old rulings rather than prove her complaints against this Respondent. It also found

a lack of credible evidence to support her allegations.

96. No amount of rehashing can overcome her abuse of process and failure to properly evidence her claims against this Respondent.

97. Even if evidenced, past health assessments and records do not rectify the fatal deficiencies warranting dismissal – abuse of process and lack of proof for her claims before us.

98. In summary, while the Tribunal found the claimant failed to engage with required health assessments, this played no role in dismissing her claims for litigation abuse and lack of evidence. This ground was misconceived and entirely without merit.

"The Respondent are not in denial of banning claimant's from ever applying for any role with the Respondent's, thus by the Respondent's own admission, the detriment being meted out to the claimant is a continuous and ongoing detriment, hence, the Claimant's claim 2301545/18 is covered by the whistle blowing act of May 2018, that extends to Job applicants.

The Respondent's 12 June 2018 action of banning of claimant's from ever applying for a role with the respondent was one of the detriments for which reason Claimant sort permission to be allowed to amend claimant's ET 2301545/2018, so as to allow the aforementioned detriment to be included in Claimant's claim 230154//2018. But alas, claimant's application for amendment was rejected both by a Tribunal Judge and the Respondent's Solicitor, thus leaving the claimant with no other cause of action, other than to input that detriment in Claimant's additional 2 claims 2019 & 2019 against the respondent in the above ET Claim." (sic)

99. The claimant rehashes her assertion that the Respondent banned her from ever applying for roles, causing ongoing detriment. However, the judgment does not find the Respondent imposed any lifetime ban.

100. The Respondent explained concerns from her past misconduct that led them to withdraw the current job offer. They did not bar future applications or cause continuous detriment; they did explain why such applications may be unsuccessful given their knowledge of the Claimant's background and their concerns about her probity.

101. The judgment concludes the claimant improperly used these proceedings to attack past rulings, not prove her claims against this Respondent using credible evidence.

102. Whether the Respondent banned the claimant, or not, was irrelevant to whether she evidenced discrimination here. The judgment finds she failed to do so.

103. Rather than properly proving her claims, she continued her pattern of seeking to undermine old decisions involving other parties through collateral attacks. This constituted further abuse of process.

104. Citing unsuccessful prior attempts to amend her claim does not rectify the fatal deficiencies in her claims as they were before us - litigation misconduct and lack of evidence.

105. The judgment dismissed her claims against this Respondent based on abuse of process and evidentiary failures. Her rehashing of the imaginary ban remains completely misconceived.

106. No amount of re-litigating the ban issue can overcome the flaws warranting dismissal - her abuse of process and failure to prove her allegations against this Respondent.

107. The judgment does not rely on any supposed ban. Her repetitive attempt to revisit this imaginary issue is wholly erroneous and reinforces her misguided misunderstanding of the judgment's basis.

108. In summary, the judgment does not find the Respondent banned the claimant. Her continuing attempts to relitigate this issue underscore her improper purpose and reflect fatal

misconceptions of the judgment's rationale. This repetitive ground remains entirely without merit.

"On the issue of disruptive Conduct, the claimant hereby wishes to draw the Tribunal's attention to the facts of Claimant's application for wasted cost order against the Respondent's Solicitor, which aforementioned application is still pending before the ET. The Claimant also wishes to draw the Judge's attention to the facts of Respondent's disruptive behaviour of serving claimant a bundle that has different paginations from the bundle that the Judge and the Respondent's legal Representatives were using during the FH proceedings, which aforementioned disruption lasted several days into the 5 (short days) hearing of 2pm – 5pm from 08 April 2024 – 12 April 2024." (sic)

109. The claimant refers to her pending wasted costs application against the Respondent's solicitor. However, the judgment does not rely on or make findings about that separate issue which was not before us.

110. The Tribunal was satisfied the Respondent served the final bundle, but the claimant refused to find, try to find, or use it despite extensive efforts encouraging her to do so. She insisted on using an outdated draft version instead. Both the Tribunal and the Respondent's Counsel had to spend considerable time helping her locate pages in a version they did not have, wasting significant hearing time.

111. The short hearing days were implemented to accommodate the claimant, not due to any action by the Respondent. Yet the claimant raises the short days as somehow detrimental.

112. Throughout the hearing, the claimant engaged in disruptive behaviour including repeatedly interrupting evidence and submissions, often using invective and unfounded allegations of attempted murder, lynching and an intention to make her homeless. The Tribunal gave her leniency, but she persisted.

113. Her conduct repeatedly obstructed the efficient presentation of evidence and arguments, in breach of her obligation to assist the Tribunal in ensuring effective proceedings.

114. The claimant's own disruptive behaviour does not constitute an error of law or procedure which she can properly rely on as warranting reconsideration of her claims' dismissal. To do so would be perverse.

115. The judgment dismissed her claims for litigation misconduct and lack of credible evidence, not anything to do with ancillary matters she raises.

116. No amount of attacking the Respondent over peripheral issues can rectify the core flaws in her claims – abuse of process and lack of proof.

117. In summary, the claimant's disruptive and uncooperative conduct provides no valid basis to reconsider dismissal of her claims for abuse of process and lack of evidence. Her attempts to deflect via collateral attacks do not address the substantive grounds on which her claims failed. This ground is entirely without merit.

"The Claimant also hereby wishes to draw the Judge's attention to the fact of Respondent's Solicitor's disruptive behaviour of refusal to use the accepted standard of tangible civil service procedure of disclosing postal receipt of posting, as proof of posting to back up assertions of sending ….. case papers to the claimant" (sic)

118. The claimant alleges the Respondent's solicitor engaged in disruptive behavior by not providing postal receipts as proof of service. However, there was no such obligation.

119. The Tribunal was satisfied the Respondent properly served the hearing bundle. The solicitor was not required to provide postal receipts as additional proof. The claimant's insistence on postal receipts as service proof reflects her misconception, not any procedural error. In any event, the Respondent is the NHS, not civil service. No applicable civil service procedure mandated they provide postal receipts.

120. The judgment dismissed her claims for abuse of process and lack of credible evidence, unrelated to ancillary service proof matters. Whether the Respondent provided postal receipts does not constitute an error of law or procedure warranting reconsideration.

121. No amount of attacking the Respondent's solicitor over inconsequential matters can overcome the dismissal grounds - misconduct and lack of evidence. The judgment does not rely on any findings about service procedures or postal receipts. Her attempts to re-litigate this are misguided.

122. In summary, the supposed lack of postal receipts provides no valid basis to reconsider the dismissal of claims for abuse of process and evidentiary failures. This repetitive ground remains entirely without merit.

"On the issue of late start of the procedure, the claimant, hereby wishes to draw the Judge's attention to the fact, that CVP proceedings are not fault proof, hence reasons, there are helpline contact numbers, and reasons why HMCTS ET Case Clerks would sometimes help in Trouble shooting CVP hearings." (sic)

123. The claimant contends CVP issues excuse her late start times. However, the judgment does not rely on her lateness as a dismissal ground. Even accounting for potential CVP troubleshooting, the claimant was still late on multiple days. On day one she unsuccessfully sought an adjournment then asked to finish early.

124. The judgment dismissed her claims due to abuse of process and lack of credible evidence, unrelated to ancillary CVP issues.

125. Whether CVP problems contributed to her late start times does not constitute an error of law warranting reconsideration.

126. The claimant's attempts to excuse her own uncooperative conduct cannot rectify the core deficiencies in her case - abuse of process and lack of proof.

127. No amount of deflecting blame onto potential CVP issues can overcome her claims' dismissal for misconduct and evidentiary failures.

128. In summary, supposed CVP problems do not provide a valid basis to reconsider dismissal of claims for litigation abuse and lack of evidence. This unmeritorious ground in no way addresses the substantive reasons the claimant's claims were dismissed. It is entirely without merit.

"On the issue of telling lies and or not being a credible witness, the claimant hereby wishes to draw the Judge's attention to paragraph 103 of the 13 April2024 Judgment that was sent to the parties on Thursday 16 June 2024, which aforementioned paragraph states and I hereby quote " The Claimant Claimed she disclosed several disabilities to the Respondent, including Fibromyalgia, spinal stenosis, and bowel/bladder issues, she alleges the job offer was withdrawn because of these disabilities''.

The Claimant hereby emphatically refutes the allegation, that the claimant had ever told the respondent and or any of agent of the respondent, whether be it in writing or othehrwise, that the claimant was afflicted with Spinal Stenosis, at any time during the recruitment period of 2017 (application form submission period, to the 2018 conditional offer withdrawal period and banning of claimant from ever applying for jobs with the respondent– (12 June 2018).

The claimant hereby avers that information to the effect that the claimant had Spinal Stenosis in those years is utter fabrication/ and or a ginormous and or gross typo-graphical error as that has never been an assertion and or a bold assertion, made by any of the parties in the above ET dispute.

For the avoidance of doubt, the Claimant has never ever heard of the Word Spinal Stenosis in 2017/2018, so – I hope that the Presiding Judge would have the Grace of Mind, to amend that

paragraph and remove such type of gross misinformation – moreso given the fact of the HMCTS Judges actions of putting HMCTS Judgments online, in the world wide web." (sic)

129. The claimant notes that the judgment should have referenced spondyloarthritis rather than spinal stenosis. I am happy to correct that error by virtue of *this* paragraph, though it does not impact the judgment's rationale or conclusions.

130. The issue of publishing judgments online is unrelated to the dismissal grounds. The Judiciary is independent, while HMCTS administers courts/tribunals. Parliament legislated for judgments to be published.

131. The judgment does not rely on the claimant's specific medical conditions. Whether the judgment referenced spinal stenosis or spondyloarthritis is inconsequential to the dismissal for abuse of process and evidentiary failures.

132. Pointing out a minor factual error does not constitute an error of law or procedure warranting reconsideration of the claims' dismissal. Rectifying the terminology around one medical condition cannot overcome the core deficiencies leading to dismissal of her claims.

133. In summary, while I do, here, correct the reference to spinal stenosis, this does not impact the judgment's rationale or validity. It provides no basis for reconsideration. Her claims were dismissed for abuse of process and lack of evidence, unrelated to the naming of one condition. This ground is without merit.

"During the Course of the Live hearing of this proceedings, the Claimant did point out the fact, that the Claimant's OH appointment was cancelled by Human resource employee of the Respondent, who cancelled claimant's OH appointment with disdain,and disdainfully wrote in an email letter to the claimant that the Claimant is already sick already, even before starting in the new role.

During the course of the Live hearing, the Claimant had pointed out the aforementioned disdainful treatment , that the claimant was subjected on account of the fact of the Claimant's sickness episode with one of the many claimant's ill-health disabilities. The Claimant hereby reiterates Claimants submission to the Tribunal that that act of the respondent's employee, who sent out the aforementioned disdainful letter to the Claimant is clearly an act of direct disability discrimination" (sic)

134. The claimant alleges an issue regarding cancellation of her OH appointment. However, the appointment was cancelled for legitimate reasons after reviewing information about her failure to properly engage with the OH process.

135. She provided no evidence that any communication was disdainful. The letter she found objectionable was factual in nature. Her accusatory questioning of witnesses was disruptive, despite repeated warnings. Describing the Judge as unkind for requiring relevant, non-repetitive, questions and allowing the witnesses to answer, was also inappropriate.

136. The judgment dismissed her claims due to her own misconduct in how she pursued this claim and because of a lack of credible evidence, not anything to do with the cancellation of one OH appointment. Whether she took offence at the cancellation communication does not constitute an error of law warranting reconsideration.

137. Her unsubstantiated allegations cannot rectify the core deficiencies in her claims - abuse of process and lack of proof. The judgment does not rely on findings about the cancellation communication. Her attempts to re-litigate this peripheral issue are entirely misguided.

138. No amount of rehashing grievances about ancillary matters can overcome dismissal for misconduct and evidentiary failures.

139. In summary, the supposed issue in cancelling one OH appointment provides no valid basis to reconsider dismissal of her claims for abuse of process and lack of evidence.

"During the course of the hearing,, the respondent's witness asserted that the respondent's accepts allegations made by referees as facts, because the Respondent is certain, that Referees are truthful in the reference report they provide to job applicants. The respondent Witness asserts that the respondent accept information on references on the good word of the referee. Hence it was on the basis of the aforementioned assertion, that I called the Tribunal and respondent's witness, attention to the information in public domain, that the UK Public haveon the good word of Theresa May (EX-British PM); words to the effect, that if you are black, you are more likely to be treated harshly by the Criminal Justice System.

Hence the issue of law that was needed to be determined by the Presiding Judge, includes, whether or not the Respondent had a right to Punish the Claimant on the basis of allegations of committing notifiable offences made against the claimant by some staff members of STG HC NHS Trust (July 2011), and some members of King's College NHS FT (July 2017)" (sic)

140. The claimant contends the Respondent wrongly accepted referees' allegations as facts and unfairly punished her based on past misconduct findings. However, the Respondent was entitled to rely on references and past employment findings, which were objective facts.

141. Her references to unrelated speeches, whomsoever they were made by, were irrelevant. She was not punished, but rather brought unproven claims. Her accusations of conspiracies were unsupported and not pertinent to her claims here.

142. The judgment found she improperly sought to attack past rulings against her. Those proceedings were completed, and she lost ensuing appeals. She cannot re-litigate them here.

143. The Respondent appropriately considered references detailing her past conduct issues.

144. Her unsubstantiated objections that the Respondent and Tribunal cannot rely on established facts and finalized rulings have no merit and do not constitute legal errors.

145. Attempting to re-litigate her objections to unrelated past decisions cannot rectify the flaws in her recent claims – abuse of process and lack of proof. Indeed, her attempt to re-litigate them further amplifies the abuse of process which we found was all encompassing in her pursuit of this claim.

146. The judgment does not rely on findings about past misconduct allegations. Her attempts to relitigate this tangential issue remain misconceived.

147. In summary, objecting to factual references and settled rulings provides no valid basis for reconsidering dismissal of her claims for abuse of process and lack of evidence. The ground is totally without merit.

"It is also usual in cases, where the parties have applied for costs against each other, for the Presiding judge to advice whether or not the each party should bear it's own cost" (sic)

148. The claimant contends the judgment should have advised on costs. However, there were no live costs applications before the Tribunal from either party.

149. As noted in the 'Abuse of process' section in our judgment, her litigation conduct exhibited hallmarks of persistently abusive behaviour, improperly seeking to re-litigate past matters unrelated to her claims against this Respondent. She continues, in this application, to exhibit the same behaviour.

150. Deciding costs without submissions would be improper. The judgment dismissed her claims for abuse of process and lack of evidence, not costs issues. Whether she sought costs against the Respondent in the past is irrelevant to the judgment dismissing her claims for abuse of process and lack of proof.

151. The judgment does not rely on any costs findings. Her attempts to raise costs now contradict her failure to pursue them before the Tribunal. Objecting to the lack of costs advice does not

constitute an error of law or procedure enabling reconsideration.

152. In summary, with no costs applications before it, the Tribunal made no costs findings. Her belated attempt to litigate costs is contradictory and provides no valid basis for reconsidering the judgment. This ground referring to non-existent costs advice has no merit and does not address the substantive reasons her claims were dismissed.

"And whether or not such acts of punishment does not amount to Lynching and or taking the laws into one's hands, more so given that no one other than a court of the rightful Jurisdiction, has a right to punish another person, without first given the person, their human rights of the due process.

Punishing someone without due process can be inferred to be borne out of victimisation to economically terrorise someone for whistle blowing, as no reasonable law abiding person, would refuse to report some one on suspicion of commiting a notifiable offence to the police home office dbs referral CQC as has been one in cases of Shemima Begum and Uk Nurse Letby." (sic)

153. The claimant's comparison of herself to convicted infant murderer Letby and 'Isis bride' and apologist Begum is extremely inappropriate and offensive. She is not remotely like those serious criminals.

154. Her sense of grievance and entitlement is staggering. She continues vexatious collateral attacks on past decisions against her, despite exhausting appeals. This is the essence of abuse of process.

155. No one has 'lynched' her. Such inflammatory language is absurd and trivializes the horrific suffering and appalling deaths of real lynching victims. She was simply not offered a job after troubling information emerged in her vetting and because she did not follow the OH process as expected. There is, on no level, any rational basis for her repeated argument.

156. The judgment found she improperly sought to undermine settled rulings, not pursue lawful rights against this Respondent. Her repetitive ad-hominem and outlandish attacks remain completely misguided.

157. The Respondent appropriately withdrew her job offer based on past conduct issues from the due process of previous proceedings and because they had received information from previous employers, a regulator and their own OH process.

158. Her offensive comparisons and allegations demonstrate why her claims were dismissed as abusive and unfounded. They reinforce that she bears all the hallmarks of a vexatious litigant.

159. In summary, her inappropriate comparisons to criminals, false lynching claims, and relentless attacks on settled rulings are all completely and utterly without merit. This ground further confirms her misconceived sense of grievance and entitlement. It provides no basis for reconsideration and is totally without merit.

"Based on the foregoing, the claimant hereby strongly entreat the Judge,(to taking into account, the relevant laws, the issues, and the proven facts in the above ET proceedings), to reconsider the 13 April 2024 Judgement that was sent to the parties on the 16 May 2024." (sic)

160. The Tribunal carefully considered all relevant laws, issues, and evidence in reaching the judgment. The claimant's contention otherwise is baseless.

161. As explained throughout this decision, her application grounds are wholly without merit and rife with inappropriate attacks. She fails to identify any actual legal or procedural error warranting reconsideration.

162. She has exhausted all appeals against past decisions yet persists in attempting to re-litigate settled matters. This is abusive litigation conduct.

163. The judgment reasonably dismissed her claims as amounting to an abuse of process and

unfounded in evidence. Her refusal to accept the outcome does not justify reconsideration.

164. She was afforded a full opportunity to pursue lawful rights against this Respondent but did not properly do so. The time has come for her to stop this misguided litigation. Her relentless attempts to undermine this judgment and earlier decisions only reinforce that she persists in pursuing a vexatious course and is acting contrary to the interests of justice.

165. In summary, as the judgment explained, her claims failed for abuse of process and lack of evidence. Her dissatisfaction does not constitute legitimate grounds to reconsider.

Conclusion

166. The claimant's application for reconsideration is dismissed. There are no grounds raised that warrant revisiting the judgment dismissing her claims as an abuse of process and totally without merit. The application essentially seeks another bite at issues she had a full and fair chance to argue at the original hearing. There is a strong public interest in litigation finality that reconsideration would undermine.

167. She has failed to identify any procedural unfairness or other circumstance that prevented her properly advancing arguments originally. The grounds relate to matters she simply wishes to re-litigate. The application advances no new evidence meeting the *Ladd v Marshall* criteria. Her assertions about service receipts, disability disclosures, OH appointments and the like were known or knowable previously.

168. She cannot use reconsideration to relitigate issues, re-challenge settled rulings in other proceedings or make allegations against individuals. That remains an abuse of process.

169. Overall, the application fails to meet the high threshold for reconsideration. It does not establish revisiting the judgment is strictly necessary in the interests of justice. The claimant pursued her claims unreasonably and without proper intention. The application continues this vexatious approach. There are no grounds demonstrating any material error of process, of law or fact.

170. For these reasons, our judgment is unlikely to be varied or revoked and the application for reconsideration is dismissed. The judgment dismissing the claims, as an abuse of process and devoid of merit, stands.

Judge M Aspinall
1st June 2024