



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms L Vassallo

**1<sup>st</sup> Respondent:** Mizuho International PLC

**2<sup>nd</sup> Respondent:** Mizuho Bank Ltd

**UPON APPLICATION** made by email dated **04 January 2024** to reconsider the decision dated **11 September 2023** under rule 71 of the Employment Tribunals Rules of Procedure 2013

## JUDGMENT

The application for reconsideration is refused.

## REASONS

1. By rule 70 of Schedule 1 to the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (“the Rules”) the Employment Tribunal may reconsider a judgment where it is necessary in the interests of justice to do so. On reconsideration, the judgment may be confirmed, varied or revoked.
2. Under Rule 1(3)(b) a “judgment” is defined as a decision which finally determines a claim or part of a claim or an issue which is capable of finally disposing of a claim or part of a claim.
3. My decision does not constitute a judgment given my decision was a refusal to amend the claim to include additional claims that had not previously been pleaded. My decision did not dispose of any of the claims as originally pleaded.
4. However, if I am wrong and my decision is a judgment, I have considered whether it should be confirmed, varied or revoked.
5. Under Rule 70, a judgment will only be reconsidered where it is necessary in the interests of justice to do so. This allows an Employment Tribunal a broad discretion to determine whether reconsideration is appropriate in the

circumstances. The discretion must be exercised judicially. This means having regard not only to the interests of the party seeking the reconsideration but also the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.

6. The procedure upon a reconsideration application is for the Employment Judge who heard the case to consider the application and determine if there are reasonable prospects of the judgment being varied or revoked. This is a reviewing function in which the Judge must consider whether there is a reasonable prospect of the original judgment being varied or revoked (rule 72). Reconsideration cannot be ordered simply because the applicant disagrees with the judgment.
7. If the Judge considers that there is no such reasonable prospect then the application shall be refused. Otherwise, the Judge shall send a notice to the parties setting a time limit for any response to the application by the other party and seeking the views of the parties on whether the application can be determined without a hearing (rule 72).
8. My role, upon the considering of the application upon the papers initially, is therefore to operate as a filter to determine whether there is a reasonable prospect of my decision being varied or revoked were the matter to be the subject of a reconsideration hearing.
9. On 04 January 2024, the claimant sent an email to the Employment Tribunal in which she made an application for reconsideration of my decision. That application was presented within the relevant time limit provided for in the Rules.
10. The claimant was represented at the hearing and I heard submissions from both her representative and from the respondent's representative. I fully considered all the evidence and the arguments made at the hearing and I refused permission to amend the claim to add claims of whistleblowing and indirect sex discrimination. I am satisfied that I applied the law correctly and gave full and adequate reasons for the decision I reached.
11. The claimant seeks to argue that I made findings that were not supported by evidence and were founded on erroneous assumptions. I do not accept that contention. The findings were supported by the evidence that was before the tribunal.
12. I have considered the application carefully and in my judgment, there are no reasonable prospects of my decision being varied or revoked. It is not necessary in the interests of justice to reconsider my decision. Accordingly, the claimant's application for reconsideration fails and is dismissed.
13. In the alternative, under rule 29 I have the power to vary my order, suspend or set aside my previous order where that it is necessary or in the interests of justice, and in particular where a party affected by the earlier order did not have a reasonable opportunity to make representations before it was made.
14. However, for the reasons I have already given, it is not necessary or in the interests of justice to vary, suspend or set aside my decision. I took into

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account all relevant matters that were before the tribunal in reaching my decision and both parties had a reasonable opportunity to make representations before my decision was made.

15. Finally, I apologise for not dealing with this request until 29 January 2024, but this was my first working day following the reconsideration request on 04 January 2024.

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Tribunal Judge J E Plowright

29 January 2024

JUDGMENT SENT TO THE PARTIES ON

30/01/2024

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FOR THE TRIBUNAL OFFICE