



EMPLOYMENT TRIBUNALS

Claimant: Ms Ikhlas Yousif
Respondent: The Good Shepherd Trust

JUDGMENT

The Claimant's application, dated 20 March 2024, for reconsideration of the Judgment, written reasons for which were sent to the parties on 6 March 2024, is refused.

REASONS

Background

1. The claimant's document, attached to her email of 20 March 2024, set out her application for reconsideration of the Judgment in relation to her claim. The claimant's application for reconsideration was made in time.

The Law

2. Rules 70 Tribunal Rules provides as follows:

A Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision ("the original decision") may be confirmed, varied or revoked. If it is revoked it may be taken again.

3. Rule 72 provides:

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

- (2) If the application has not been refused under paragraph (1), the original decision shall be reconsidered at a hearing unless the Employment Judge considers, having regard to any response to the notice provided under paragraph (1), that a hearing is not necessary in the interests of justice. If the reconsideration proceeds without a hearing the parties shall be given a reasonable opportunity to make further written representations.
- (3) Where practicable, the consideration under paragraph (1) shall be by the Employment Judge who made the original decision or, as the case may be, chaired the full tribunal which made it; and any reconsideration under paragraph (2) shall be made by the Judge or, as the case may be, the full tribunal which made the original decision. Where that is not practicable, the President, Vice President or a Regional Employment Judge shall appoint another Employment Judge to deal with the application or, in the case of a decision of a full tribunal, shall either direct that the reconsideration be by such members of the original Tribunal as remain available or reconstitute the Tribunal in whole or in part.
4. Under Rule 72(1) I may refuse an application based on a preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.
5. I also take into account the Overriding Objective as set out below

The overriding objective of these Rules is to enable Employment Tribunals to deal with cases fairly and justly. Dealing with a case fairly and justly includes, so far as practicable—

- (a) ensuring that the parties are on an equal footing;
- (b) dealing with cases in ways which are proportionate to the complexity and importance of the issues;
- (c) avoiding unnecessary formality and seeking flexibility in the proceedings;
- (d) avoiding delay, so far as compatible with proper consideration of the issues; and
- (e) saving expense.

A Tribunal shall seek to give effect to the overriding objective in interpreting, or exercising any power given to it by, these Rules. The parties and their representatives shall assist the Tribunal to further the overriding objective and in particular shall cooperate generally with each other and with the Tribunal.

The Application

6. From the Claimant's reconsideration application I discerned the following complaints:
- a. The Judgment did not adequately consider the comparators
 - b. The Tribunal accepted the evidence of one of the respondent's witnesses, Ms Athersuch, without good reason
 - c. There was bias and injustice towards the claimant as a result the above.

Conclusions

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2304610/2021**

7. The Tribunal's findings were that the claimant had been less favourably treated than the comparators in that the respondent had received inadequate support from the respondent and the respondent had failed to review her support plan.
8. The Tribunal further found that the claimant had proved facts in respect of some of her allegations which satisfied the test in section 136 of the EqA and that the burden of proof had therefore '*shifted*' to the respondent.
9. The Tribunal was entitled to and did prefer the evidence of Ms Athersuch to that of the claimant as to the additional pressures on her as a result of the Covid 19 pandemic and the return to in-person teachers. Ms Athersuch occupied a senior role within the school as KS1 phase leader and we accepted her unchallenged evidence that she was responsible for 180 children, 8 teaching staff and additional support staff and in respect of the pressures upon her that affected her availability to meet with the claimant. The Tribunal accepted Ms Athersuch's evidence that she had to cover several weeks of compassionate leave for a colleague whose father had died and that she had her own absences on account of a Covid bubble and illness. We were not presented with evidence by the claimant that the other NQTs' mentors over the relevant period occupied similar leadership roles as Ms Athersuch which gave them equivalent additional responsibilities as those of Ms Athersuch. In any event we were satisfied that Ms Athersuch was specifically subject to pressures and commitments that took up her time and that was the reason for her failing as the claimant's mentor to provide her adequate support or review her support. Plan.
10. Overall, I did not consider that there was any reasonable prospect of the original decision being varied or revoked and therefore considered that that the Claimant's reconsideration application should be refused.

Employment Judge Kumar

Date: 17 June 2024

JUDGMENT SENT TO THE PARTIES ON

2 July 2024

FOR THE TRIBUNAL OFFICE