EMPLOYMENT TRIBUNALS

Claimant: Mr N Narli

Respondent: Babcock Integrated Technology Ltd

JUDGMENT

The claimant's application dated **24 May 2024** (as supplemented by an email dated **6 June 2024**) for reconsideration of the judgment sent to the parties on **16 May 2024** is refused.

REASONS

Background and the application

1. At a hearing that took place on 8-11 April 2024 the Claimant's claim of direct nationality discrimination was found to be well-founded. Judgment in respect of liability and reasons for that judgment were given orally at the hearing, and a written judgment in respect of liability was sent to the parties on 18 April 2024. The liability judgment referred to the Claimant's full name and at the bottom of the judgment it was explained that written reasons would be provided if requested and that judgments and written reasons are published, in full, online.

2. By an email dated 1 May 2024, the Claimant requested written reasons for the liability judgment which were sent to the parties on 2 July 2024. The Claimant did not make any request for his first name to be omitted from the liability judgment.

3. A reserved judgment with reasons in relation to remedy, again referring to the Claimant's full name, was sent to the parties on 16 May 2024.

4. On 24 May 2024 the Claimant wrote to the Tribunal in reply to the email sharing the remedy judgment and reasons asking for the judgment to be amended to refer to his name as 'N Narli'. He further explained by email on

6 June 2024 that his reason for this request was that when prospective recruiters googled his name the only result coming up (other than his company details) is his judgment and that this caused problems in him being 'hired ever again'. He also noted that the remedy reasons included reference to an allegation he had been dismissed from a previous workplace, which he says is not true, and that the judgment refers to a 40% chance he would have been dismissed from the Respondent's employment in any event. The Claimant feels nobody would want to hire him in those circumstances and that he had one interview since the final hearing and the company asked him about his experience with the Respondent and have not come back to him since then.

5. I have treated this as an application to reconsider the remedy judgment under Rule 71 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 (the 'Tribunal Rules'), so as to amend the judgment and refer to the Claimant by his first initial and surname only.

Law

6. Rules 70-72 of the Tribunal Rules provide as follows:

> 70. Principles
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> 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.
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> 71. Application
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> 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.
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> 72. Process
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> (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.
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> (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.

7. There is one ground for reconsideration under Rule 70: where it is necessary in the interests of justice.

8. In ***Outasight VB Ltd v Brown [2015] ICR D11***, EAT, Her Honour Judge Eady QC accepted that the wording 'necessary in the interests of justice' in rule 70 allows employment tribunals a broad discretion to determine whether reconsideration of a judgment is appropriate in the circumstances.

Decision

9. I have concluded there are no reasonable prospects of the original decision being varied or revoked and therefore the Claimant's application is refused.

10. The Claimant did not raise any concerns about his full name being recorded in response to the judgment on liability being sent to the parties and requested written reasons for that judgment to be provided, despite having been informed they would appear on the website.

11. The Claimant has put forward no evidence for his assertion that including his full name in the judgment (as opposed to his first initial and surname) has caused or is likely to cause hardship. It is noted his surname is relatively unusual and therefore it seems likely that it would be possible to find the judgment from just his surname and initial in any event.

12. The Claimant referred to a company from Bristol not coming back to him after asking about his experience with the Respondent, but this is not indicative of him having been affected by the reference in the judgment to his first name.

13. In terms of the potential hardship of the judgment being found, it is noted that the Claimant *won* his claim and the judgment on remedy makes that clear, as well as recording within the reasons that:

    a. the assertion he had been dismissed from his previous job was an allegation he disagreed with and considered amounted to slander;

    b. the Claimant was not dismissed by the Respondent for misconduct, the termination was for circumstances outside his control and there is no indication the Respondent would not confirm that in a reference.

14. It is also clear from the reasons for the liability judgment (also available online), that the 40% risk of dismissal related to his security clearance and that did not arise from any assertion of misconduct.

15. The Claimant did not request that his name appear in any particular way

during the hearing (despite it being explained that Judgments and Reasons would be put on the website). Even if the remedy judgment were amended, the liability judgment would still remain with his full name, which he did not challenge within 14 days of the judgment being sent to him.

16. In the above circumstances there are no reasonable prospects of the remedy judgment being revoked or varied.

Employment Judge Danvers

Date___21 July 2024_____

JUDGMENT SENT TO THE PARTIES ON
26 July 2024 By Mr J McCormick

FOR THE TRIBUNAL OFFICE