



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Gandhi

**Respondent:** Hull University Teaching Hospitals NHS Trust

## JUDGMENT

The claimant's application dated **31 July 2024** for reconsideration of the judgment sent to the parties on **16 March 2023** is refused.

## REASONS

1. There is no reasonable prospect of the original decision being varied or revoked.
2. The claimant made a further application on 31 July 2024 to reconsider the tribunal's judgment dismissing his claims of Direct Race Discrimination, Harassment related to race and victimisation which was sent to the parties on 16 March 2023.
3. The claimant relies on a number of grounds. The first is that new correspondence has come to light between Ms Gilchrist and Surrey Physio suggesting that Ms Gilchrist actively sought to undermine the claimant's professional reputation. This, the claimant says, further substantiates the claimant's claims that the respondent's actions were racially motivated. The claimant worked for Surrey Physio after his employment with the respondent. They appear to have had some difficulties with the claimant and contacted Ms Gilchrist for further information about him.
4. The correspondence sent by the claimant manifestly and obviously shows no such thing. The documents he has sent demonstrate that Surrey Physio had concerns about the claimant and contacted Ms Gilchrist who responded. There is nothing in the correspondence that could lead the tribunal to conclude that any of Ms Gilchrist's actions were related in any way at all to the claimant's race or to any protected acts he might have done.

5. It may be permissible to rely on post tribunal conduct of a party or witness to reconsider the tribunal's decision if it obviously showed that the evidence that tribunal relied on was not reliable and had a high chance of changing the decision. This evidence does not do that.
6. The other basis on which the claimant seeks a reconsideration are that the tribunal came to the wrong conclusions on the evidence and/or got the law wrong.
7. These are matters which are properly the subject of an appeal to the Employment Appeal Tribunal. It might be in the interests of just to reconsider our decision if we had made an obvious and important mistake about the evidence, but in this case the claimant is just saying that we were wrong to prefer the respondent's evidence rather than his on some occasions. It is not in the interests of justice to reconsider the decision on that basis. Proceedings must reach a conclusion – they cannot keep being re-argued until one party gets the outcome they want.
8. The claimant acknowledges that the application is out of time and relies on two fit notes from 23 May 2024 to 13 August 2024. This does not dela with the period from 28 March 2023 to 23 May 2024 during which period that claimant in fact attended and represented himself at a reconsideration hearing.
9. It is unclear when the new documents that the claimant seeks to rely on came to his attention, but as they are, in my view, irrelevant in any case that does not matter.
10. The claimant says that we have afforded the respondent latitude in extending time for their reconsideration application so should afford him the same. We considered that application on the particular facts, and I consider this application on the particular facts too. Our previous decision about the respondent's application does not set a precedent.
11. Despite the substantial delay in the claimant's application, I have set out my brief conclusions on the merits of the application for the benefit of the parties and because the merits of the claimant's application are relevant to my decision whether to extend time.
12. I note that even if the application was to consider the reconsidered judgment sent to the parties on 3 April 2024 (with reasons sent on 18 April 2024) the application is still out of time and the claimant's fit note did not start until after the expiry of 14 days from then. However, the reconsideration judgment did not address the discrimination and victimisation claims at all so it is not clear that the claimant could be requesting a reconsideration of the decision.
13. In either case, the prospects of success for the claimant's application are the same.
14. The claimant's application for a reconsideration is refused. It is over a year out of time and there is no reasonable prospect of the judgment being reconsidered.

15. The respondent has not had an opportunity to respond to the claimant's application. However, on this occasion, the claimant's application is so manifestly unmeritorious that it was in accordance with the principles of the overriding objective to determine the application quickly.

Employment Judge **Miller**

Date 2 August 2024