



EMPLOYMENT TRIBUNALS

Claimant: Mr S E Toughfar

Respondent: Search Education Trust

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the Tribunal is that the Claimant's application dated 18 April 2024 for reconsideration of the judgment dated 4 April 2024 sent to the parties on 4 April 2024 is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. The claimant's complaints of direct discrimination on the grounds of religion and harassment on the grounds of religion were dismissed by a reserved judgment sent to the parties on 4 April 2024.
2. The claimant made an application for reconsideration by email sent on 18 April 2024, attaching a detailed document containing 48 paragraphs.

The Law

3. Schedule 1 of The Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013 contains the Employment Tribunal Rules of Procedure 2013 ("the Rules").
4. Under Rule 70 of the Rules, the Employment Tribunal may, either on its own initiative 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 may be confirmed, varied or revoked.
5. Rule 71 provides that an application for reconsideration under Rule 70 must be made in writing (and copied to all other parties) within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties.
6. The process by which the Tribunal considers an application for reconsideration is set out in Rule 72. Rule 72(1) provides that where an Employment Judge considers that there is no reasonable prospect of the original decision being

varied or revoked, the application shall be refused and the Tribunal shall inform the parties of the refusal.

7. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA. Paragraphs 34 and 35 provide as follows: “34. [...] a request for reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way or adopting points previously omitted. There is an underlying public policy principle in all judicial proceedings that there should be finality in litigation, and reconsideration applications are a limited exception to that rule. They are not a means by which to have a second bite at the cherry, nor are they intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed but with different emphasis or additional evidence that was previously available being tendered. Tribunals have a wide discretion whether or not to order reconsideration.

Where [...] a matter has been fully ventilated and properly argued, and in the absence of any identifiable administrative error or event occurring after the hearing that requires a reconsideration in the interests of justice, any asserted error of law is to be corrected on appeal and not through the back door by way of a reconsideration application.”

8. The claimant’s application was received 1 day outside the relevant time limit in accordance with Rule 71. The application has been copied to the respondent representative.
9. The application for reconsideration is made on the following grounds (in summary);
- a. It is in the interest of justice to maintain a religious belief and live out a faith peacefully, healthily and in an inclusive way in the world, protected from their belief being violated by association and depiction through a character who opposes that religious belief.
 - b. The judgment is unfairly biased towards the respondent.
 - c. The claimant not having legal counsel impacted on his ability to put forward his experience in legal terms.
 - d. That the Tribunal and the respondent Counsel should have questioned him more about the Grinch award and about his religious belief.
 - e. The Tribunal should have considered the mental effect on the claimant.
10. The Tribunal has considered each of the above grounds and the detailed statement. These are not arguable grounds for reconsideration, for the reasons set out below.

Ground (a)

11. The Tribunal does not disagree that all individuals of whatever religion or

belief should be able to live out their faith peacefully, healthily and in any exclusive way without being discriminated or violated. That is an individual's human right. The Tribunal did not find that the claimant's religion or belief had been violated for the reasons set out in the judgment.

Ground (b)

12. The claimant is entitled to his opinion. The Tribunal has made findings of facts based on the evidence and representations made by the parties.

Ground (c)

13. Self-representing litigants are a regular feature of the Employment Tribunals and other court proceedings. The Tribunal recognised the claimant was a litigant in person. At the hearing he was ably supported by Ms Aksu and has been during the course of this case. The Tribunal was careful to take steps throughout the hearing to ensure the claimant had a fair hearing in pursuance of the overriding objective. During the hearing the claimant and Ms Baku came across as intelligent and articulate individuals who were able to follow the proceedings; expressed themselves well, and were able to put forward their case and representations without difficulty.

Ground (d)

14. The claimant was cross examined appropriately and in some detail by the respondent Counsel. The Tribunal also asked questions of the claimant as were necessary to determine the factual and legal issues it was required to determine.

Ground (e)

15. The claimant's mental health issue would have been a relevant consideration had the claimant been successful and the Tribunal was required to assess damages for injury to feelings.
16. The Tribunal recognises the claimant is a disappointed litigant. In paragraphs 6 to 47 of the application, he seeks to challenge with his opinion and further representations, the findings of fact that were made with conclusions reached from those findings. He also seeks to argue new points not advanced at the hearing. This is an attempt to relitigate what was explored and ventilated in detail at the hearing. It is not the purpose of reconsideration to allow a party to dispute a determination of a finding of fact that it disagrees with or an opportunity to rehearse the arguments that have already been made. It is a fundamental requirement of litigation there is certainty and finality. The Claimant is respectfully referred to paragraph 7 above.
17. The application for reconsideration does not raise any procedural error or any other matter which would make reconsideration necessary in the interests of justice.
18. If there was an error of law, this is a matter for appeal and not

reconsideration. The claimant has not argued or identified an error of law.

19. In the circumstances the application for reconsideration of the judgement is rejected on the basis that there is no reasonable prospect of it being varied or revoked. Accordingly, the application for reconsideration is therefore refused.

Employment Judge Bansal
29 July 2024

JUDGMENT SENT TO THE PARTIES ON
9 August 2024

FOR THE TRIBUNAL OFFICE