



EMPLOYMENT TRIBUNALS

Claimant: Mr. J. Shah

Respondents: Horsham District Council

JUDGMENT on RECONSIDERATION

1. The Claimant's application for reconsideration of the judgment given in this matter on 1st August 2024 is refused, and the decision in that judgment is confirmed.

APPLICATION

2. The Claimant applied, under Rule 71 of the Employment Tribunals Rules of Procedure 2013, for reconsideration of my decision on 23rd August 2024 to strike out the Claimant's claim.
3. The Claimant has applied for a reconsideration of my judgment as he believes that,

'this judgment is heavily biased and pre-ordained outcome. Judge Sudra is corrupt and not fit to be in a position of authority as an impartial person in such a tenure. The judge continuously throughout the hearing bullied the claimant such that he berated his elderly mother from bringing him a cup of coffee, stating 'this is a private hearing and you should behave as

if you were in court'. There is no reasonable justification for the hearing to have been kept private, other than that the judge wanted to hide the unfair behaviours, bullying and harassment meted out against the claimant, totally biased in favour of the respondent barrister, whose judgment he deferred to on every aspect. Despite seeming to offer the claimant guidance on deciding what constituted a 'PCP' comparator, the very same judge (Sudra) then allowed counsel S. Barratt to conclude that this PCP was not valid. Judge Sudra then denied that he had advised the claimant that such a PCP comparator was suggested. The fact again that the hearing was held in private allows the judge cover to deny this, which he has done, stating in written judgment (received many days after the second hearing, which was held without the claimant being present, as the claimant notified the Tribunal he was unwell - yet the Tribunal proceeded in the claimant's absence, knowing full well this to be the case).'

and

'I was sick at the time and the Tribunal was fully aware; I was awaiting legal representation and the Tribunal was made aware. Judge Sudra was hell-bent on dismissing my case notwithstanding and at all costs, as he is a thoroughly reprehensible person who discriminates against those from a Pakistani background and litigants in person. He made this obvious during the hearing.'

DECISION

4. Upon reconsideration, there is no prospect of my decision being revoked or varied.

5. Reconsideration is not an opportunity for a party to seek to re-litigate matters that have already been litigated, or to re-argue matters in a different way or adopting points previously omitted.
6. 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. The importance of finality was confirmed by the Court of Appeal in Ministry of Justice v. Burton and anor [2016] EWCA Civ 714 in July 2016 where Elias LJ said that:

‘the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray and Vials [1994] ICR 384 Mummery J held that the failure of a party’s representative to draw attention to a particular argument will not generally justify granting a review.’

7. Similarly, in Liddington v. 2Gether NHS Foundation Trust EAT/0002/16 the EAT chaired by Simler P (as she then was) said in paragraph 34 that:

‘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 by 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.’

8. Reconsideration is not a means by which to have a second bite at the cherry, or is it 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.
9. 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.
10. For all of the above reasons, the Claimant's application is refused.

Employment Judge Sudra

Date: 18th September 2024