



# EMPLOYMENT TRIBUNALS

**Claimant:** Mr J Sandher

**Respondent:** Hillingdon Hospitals NHS Foundation Trust

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the Tribunal is that the Claimant's application dated 5 September 2024 for reconsideration of the judgment dated 5 July 2024 sent to the parties on 23 August 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 race, harassment on the grounds of race and failure to make reasonable adjustments were dismissed. The Tribunal gave an oral judgment at the conclusion of the hearing on 5 July 2024. A judgment was sent to the parties on 23 August 2024.
2. The claimant made an application for reconsideration by email sent on 5 September 2024.

#### 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 within the relevant time limit in accordance with Rule 71 and the application has been copied to the respondent representative.
9. The application for reconsideration is made on the following grounds (in summary);
  - a. The respondent deliberately and intentionally used fabricated emails to pervert the course of justice.
  - b. The Tribunal in their oral judgment stated that the emails the claimant provided were not statements.
  - c. The respondent witnesses lied and their evidence is inconsistent.
10. The Tribunal has considered the above grounds. These are not arguable grounds for reconsideration. The Tribunal made findings of facts based on the evidence and representations made by the parties. The claimant now seeks to challenge the findings of fact that were made with conclusions reached from those findings. He also seeks to bring new evidence to argue certain emails have being fabricated. This new evidence was not produced at the hearing which were not produced. The Tribunal made observations on this point in the judgment. This application is an attempt to re-litigate what was explored and ventilated at the hearing. It is not the purpose of reconsideration to allow a party to dispute a determination of findings of fact that it disagrees with or a further 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.

11. The application for reconsideration does not raise any procedural error or any other matter which would make reconsideration necessary in the interests of justice.
12. 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.
13. 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.

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**Employment Judge Bansal  
22 October 2024**

JUDGMENT SENT TO THE PARTIES ON

28 October 2024

FOR THE TRIBUNAL OFFICE