



EMPLOYMENT TRIBUNALS

Claimant: Ms P Ong

Respondent: Aberystwyth University

JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the Tribunal is that the Claimant's application dated 12 January 2025 for reconsideration of the judgment dated 11 December 2024 sent to the parties on 13 December 2024 is refused because there is no reasonable prospect of the decision being varied or revoked.

REASONS

1. By a Reserved Judgment dated 11 December 2024 and sent to the parties on 13 December 2024, the Tribunal found, the claimant's complaints of direct discrimination on the grounds of race, age, and disability; discrimination arising from disability and failure to make reasonable adjustments were not well founded and were dismissed. The complaint of victimisation was also not well founded and was dismissed except for complaint 21 (7.3) in the List of Issues which was well founded and succeeded. The complaint of unfair dismissal was well founded and succeeded.
2. By email dated 12 January 2025 the claimant made an application for reconsideration in a document of 18 pages, with an Appendices of 9 additional pages.

The Law

3. Under Rule 68 of the Employment Tribunal Procedure Rules 2024, 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.
4. Rule 69 provides that an application for reconsideration under Rule 68 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.

5. The process by which the Tribunal considers an application for reconsideration is set out in Rule 70(2) provides that where an Employment Judge considers that there is no reasonable prospect of the original decision being varied or revoked, the application must be refused and the Tribunal must inform the parties of the refusal.
6. 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.*”
7. By an application dated 17 December 2024 the claimant requested an extension of time to submit an application for reconsideration. This application was granted and time was extended to 4pm on Friday 12 January 2025. The claimant sent the application for reconsideration to the Tribunal by the due date on 12 January 2025 at 15.32. It was also copied to the respondent’s legal representative.
8. In considering this application the Tribunal observed that an administrative error had been made to refer to the date of 12 January to be a Friday, when in fact 12 January fell on a Sunday. As confirmed above the claimant presented her application by the due date of 12 January 2025. Accordingly, the Tribunal has determined the application has been received within the extended time limit in accordance with Rule 69. Also the application has been copied to the respondent as required.
9. The application for reconsideration is made on the following material grounds, which are summarised as follows;
 - a. The List of Issues
The claimant’s contends that, “*The List of Issues was prepared in response to the Judge’s Order but does not form part of a Judge’s Order... The claimant was not asked to agree the List of Issues until the first day of the hearing. The claimant had an hour at lunch time to read*

and checked the content are the same as the Case Management Order on first day of hearing..”

b. Protected Act 2 – Letter to the Vice Chancellor dated 15 September 2020 (referred to in the proceedings as “PA2”) (Para 245 – Reserved Judgment)

The claimant has asserted that this letter asserted facts capable of amounting in law to an act of discrimination by an employer and is a protected act. (Para 16).

c. Knowledge of protected acts by named individuals (Para 247 of Reserved Judgment)

The claimant has made further representations why she is of the view that a number of the respondent witnesses had knowledge of the protected acts.

d. Challenge to findings and conclusions (Paras 25 & 250; 51-61; 252; 285; 289; 315; 319; 326; 330; 340; 356; 367; 375; 392 Reserved Judgment)

10. The Tribunal addresses each ground as set out below;

a. The List of Issues

11. The List of Issues (“List”) was produced by the respondent solicitors as directed by Employment Judge Harding (“EJ Harding”) at the case management preliminary hearing held on 4-5 May 2023. This List mirrored the issues finalised by EJ Harding in her Order. This List had was sent to the claimant in advance of the final hearing.

12. At the start of the final hearing, the Tribunal noted there was some minor clarification required to the List from the claimant, which the claimant provided. Notwithstanding the claimant’s lengthy witness statement (159 pages) which was prepared on the basis of the issues contained in this List, the claimant, at her request, was given an opportunity to review the List during the lunch break. Following a review, the claimant confirmed her approval and agreement to the prepared List without amendment.

13. The agreed List reflected the claimant’s complaints which had been discussed and finalised in detail by EJ Harding. This was clear to both parties. At the outset of this hearing the parties were reminded to focus on the issues in the List and to ensure that each factual and legal issue was sufficiently addressed in evidence.

14. There is no justifiable ground for the claimant to argue either a procedural irregularity or an error of law.

b. Protected Act 2.

15. The Tribunal has made a legal determination based on the facts. The claimant appears to be assert the Tribunal has made an error of law. If so, that is a matter of appeal to the Employment Appeal Tribunal and not for reconsideration.

c. - c & d. Knowledge of protected acts and Tribunal findings and conclusion

16. The Tribunal recognises the claimant is a disappointed litigant. The claimant seeks to challenge findings of fact that were made with conclusions that the Tribunal reached from those findings. She also seeks to argue new points not advanced at the hearing with additional new documents. This ground is an attempt to relitigate what was explored and ventilated in considerable detail at the final 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, and to advance further arguments. It is a fundamental requirement of litigation that there is certainty and finality. The claimant is respectfully referred to Para 6 above, and to the words of Simler P in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA.
17. This application for reconsideration does not raise any procedural error or any other matter which would make reconsideration necessary in the interests of justice.
18. For the reasons set out above, this application for reconsideration of the judgement is refused on the basis there is no reasonable prospect of it being varied or revoked.

Approved By

Employment Judge Bansal

5 February 2025