



EMPLOYMENT TRIBUNALS

Claimant: Mr. M. A. Kesen

Respondents: London Fire Commissioner

JUDGMENT on RECONSIDERATION

1. The Claimant's application for reconsideration of the judgment given in this matter on 29th November 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 (now Rule 69 of the Employment Tribunal Procedure Rules 2024), for reconsideration of my decisions, made on 29th November 2024, in respect of a Strike Out Order, Deposit Order, and the Claimant's application to amend his claim.
3. The Claimant has applied for a reconsideration of my judgment as he believes that,

'It is necessary in the interests of justice to reconsider the judgments...'

Strike Out

4. I found that there was no continuing act which would allow a Tribunal to exercise its discretion to extend time where a claim or an allegation has been brought outside of the primary time limit. The alleged discriminatory acts were said by the Claimant to have been done by various different unconnected managers over several years with significant gaps in between the alleged acts.
5. The Claimant's argument that as his claim is against the employer - and not *individual* managers - a continuous act is made out, is erroneous.

Deposit Order

6. The Claimant has requested for a reconsideration of the Deposit Order made as:

'The acts complained of by the Claimant which were struck out, show a string of behaviour, amounting to discrimination/victimization, which the Tribunal should have considered before reaching their decision for the Deposit Order.'

7. The Claimant has not made out a cogent argument as to why a Deposit Order should not have been made or why the allegations for which the Deposit Order was made have more than little reasonable prospects of success.

Application to Amend the Claim

8. Written reasons as to why the Claimant's application to amend his claim was refused were sent to the parties on 31st January 2025. The Claimant's reason for his application for reconsideration of this decision i.e. that written reasons had not been received, is now defunct.

DECISION

9. Upon reconsideration, there is no prospect of my decision being revoked or varied.
10. 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.
11. 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.’

12. 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.'

13. 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.
14. 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.
15. For all of the above reasons, the Claimant's application is refused.

Employment Judge Sudra

Date: 15th APRIL 2025