



# EMPLOYMENT TRIBUNALS

**Claimant:** Ms L Kogut

**Respondent:** The British Library

**Before:** Employment Judge Nicolle in Chambers

## Judgment

1. The Claimant's application dated 22 March 2025 for reconsideration of the Tribunal's judgment dated 30 January 2025 (the Judgment), and sent to the parties on 10 January 2025, is refused with the exception of the grossing up of the compensatory payments to the Claimant pursuant to paragraphs 130 and 131 of the Judgment.

## Reasons

2. I have considered the application by the Claimant dated 22 March 2025 for a reconsideration of the Judgment (the Reconsideration Application).
3. I have considered the Reconsideration Application in accordance with the provisions set out in Rule 68 of the Employment Tribunal Procedure Rules 2024 (the Rules), which provides that reconsideration is only appropriate where it is necessary in the interests of justice, and under Rule 70 that there is a reasonable prospect of the original decision being varied or revoked.
4. Reconsiderations are limited exceptions to the general rule that employment Tribunal decisions should not be reopened and relitigated. It is not a method by which a disappointed party to proceedings can get a second bite of the cherry.

5. Reconsideration is not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced, which was available before.
6. A Tribunal dealing with the question of reconsideration must seek to give effect to the overriding objective to deal with cases 'fairly and justly' in accordance with Rule 3.
7. In considering the application regard needs to be given to not only the interests of the party seeking the reconsideration, but also to the interests of other parties to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation.
8. I do not consider that the various matters referred to in the Reconsideration Application would, in accordance with the interests of justice, make it appropriate for there to be a detailed reconsideration of the Judgment.
9. I have reached this decision for the following reasons.

The Claimant's wish to add additional claims

10. In section 1 (pages 1 to 15) the Claimant seeks to add claims for harassment on account of disability pursuant to section 26 of the Equality Act 2010 (the EQA) and discrimination arising from a disability pursuant to S 13 of the EQA. However, these claims were not included in the particulars of claim nor the agreed list of issues. The claim, and therefore the Judgment, were confined to the matters set out in the agreed list of issues, which were confined to an alleged failure by the Respondent to make reasonable adjustments on account of disability pursuant to sections 20 and 21 of the EQA. It would therefore not be appropriate to retrospectively add additional claims to those pleaded. While such claims may have been arguable it would be wholly inappropriate for them to be retrospectively added and adjudicated.

The Claimant's allegation of procedural unfairness as result of alleged misrepresentation by the Respondent's counsel

11. In section 2 (pages 15-17) the Claimant refers to allegations of procedural unfairness as result of alleged misrepresentation by Mr Braier in his closing submissions. In its deliberations the Tribunal assessed the credibility of the witnesses, the evidence and took account of the parties' submissions. The Claimant's assertions regarding Mr Braier's submissions do not give rise to a ground for the reconsideration of the Judgment. It would not be appropriate for the Tribunal to retrospectively express any opinion as to the parties' submissions.

Request the recalculation of lost earnings compensation

12. In section 3 (page 17) the Claimant requests recalculation of the lost earnings compensation. I consider that this application is meritorious. The award for lost earnings of £1240.49 in paragraph 130 should be grossed up to reflect basic

rate tax to £1488.59. There should then be a consequential increase in the figure in paragraph 131 to an interest inclusive gross figure of £1620.24. The Tribunal's calculations had been based on the net figures provided by the Claimant in her schedule of loss dated 15 November 2023. For the avoidance of doubt the award for injury to feelings does not need to be a grossed up as it is not subject to the deduction of tax.

13. In the circumstances I consider there is no reasonable prospect of the Judgment being varied or revoked, save in respect of the grossing up of the awards as referred to in paragraph 12 above) and given that this should not be a matter of dispute between the parties, I consider it is therefore unnecessary to seek the Respondent's response to the Reconsideration Application and nor is it necessary to seek the parties' views on whether it can be determined without a hearing.

**Employment Judge Nicolle**

**14 April 2025**

Sent to the parties on:

17 April 2025

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For the Tribunal:

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