EMPLOYMENT TRIBUNALS

Claimant	v	**Respondents**
Mrs S Leighton		Buckinghamshire Council (1) The Governing Body of Hughenden Primary School (2)

Heard at: Reading Employment Tribunal

On: 2, 3, 4, 6, 9, 11, 12, 13, 16, 17 and 18 September 2024 with further hearing days attended by the tribunal only on 19 and 20 September 2024 and 18 October 2024

Before: Employment Judge Hawksworth
Mr J Appleton
Mrs C Baggs

Appearances:
the Claimant: represented herself, assisted by Mr D Wallace
for the Respondent: Mr L Davidson (counsel)

JUDGMENT ON RECONSIDERATION

IMPORTANT: there is a permanent restriction on reporting or publishing in respect of these proceedings the name or any identifying material of any person who was a student of Hughenden Primary School at any time during the period 2012 to 2024, or any member of the family of any such student. A further permanent restriction prevents disclosure of any document or witness statement which was in evidence before the tribunal if it includes the name of any person who was a student of Hughenden Primary School at any time during the period 2012 to 2024, or any member of the family of any such student, even if the name of the person is redacted.

The claimant's application for reconsideration of the reserved judgment of the tribunal sent to the parties on 10 December 2024 is refused under rule 70(2) of the Employment Tribunal Procedure Rules 2024.

REASONS

Introduction

1. The reserved judgment and reasons in the claimant's claim against the respondents were sent to the parties on 10 December 2024. The claimant made an application for reconsideration of the judgment by email on 24 December 2024. The application was brought to my attention on 6 January 2025.

2. I have considered under rule 70(2) whether the claimant's application for reconsideration discloses a reasonable prospect of the reserved judgment being varied or revoked. Under paragraph 6 of the Senior President of Tribunals' Practice Direction on Panel Composition in the Employment Tribunals and Employment Appeal Tribunal, I consider this alone (without members).

The rules on reconsideration

3. The reconsideration process is not an opportunity for a party to seek to reopen matters which the tribunal has determined. There must be some basis for reconsideration. Rule 68 of the Employment Tribunal Procedure Rules 2024 says:

> *"(1) The Tribunal may, either on its own initiative (which may reflect a request from the Employment Appeal Tribunal) or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so.*
>
> *(2) A judgment under reconsideration may be confirmed, varied or revoked.*
>
> *(3) If the judgment under reconsideration is revoked the Tribunal may take the decision again. In doing so the Tribunal is not required to come to the same conclusion."*

4. The principle that a judgment may only be reconsidered where reconsideration is necessary in the interests of justice reflects the public interest in the finality of litigation.

5. Rule 69 says that an application for reconsideration must be made in writing within 14 days of the date on which the written record of the judgment was sent to the parties.

6. Rule 70 explains the process to be followed on an application for reconsideration under rule 69. It says:

> *"(1) The Tribunal must consider any application made under rule 69 (application for reconsideration).*
>
> *(2) If the Tribunal considers that there is no reasonable prospect of the judgment being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application must be refused and the Tribunal must inform the parties of the refusal.*
>
> *(3) If the application has not been refused under paragraph (2), the Tribunal must send a notice to the parties specifying the period by which any written representations in respect of the application must be received by the Tribunal, and seeking the views of the parties on whether the application can be determined without a hearing. The notice may also set out the Tribunal's provisional views on the application.*
>
> *(4) If the application has not been refused under paragraph (2), the judgment must be reconsidered at a hearing unless the Tribunal considers, having regard to any written representations provided under paragraph (3), that a hearing is not necessary in the interests of justice.*
>
> *(5) If the Tribunal determines the application without a hearing the parties must be given a reasonable opportunity to make further written representations in respect of the application."*

Conclusions on the claimant's application

7. The claimant has complied with rule 69: her application for reconsideration was made within the required 14 days of the date on which the reserved judgment and reasons was sent to the parties and it was copied to the respondent's representative.

8. Rule 70(2) requires me to consider whether there is any reasonable prospect of the original decision being varied or revoked. I must decide whether there is any reasonable prospect of a conclusion that variation or revocation of the original decision is necessary in the interests of justice.

9. The claimant's application is set out in a covering email (the 'application email') and a document (the 'application document'). The application document is 142 pages long and is made up of a copy of the 57 page reserved judgment and reasons with comments and page references added

throughout the document by the claimant (she has highlighted some but not all of her comments). The application document also includes copies of other documents which the claimant has pasted in, including some pages from the bundle, some documents which post-date the hearing, and a 29 page submission document.

10. I have read the claimant's application email and application document in full. The format of the application means that it is not easy to follow all of the claimant's points. It is also not proportionate, given the length of the application, to refer in this judgment to every point made by the claimant in her application. I explain below my conclusions on what I understand to be the key issues raised by the claimant in her application email and the application document.

Application email

11. Points 1, 2, 3, 6 and 8: the claimant raises points about the documents and hearing bundle, including about redactions.

12. As we said in our reserved judgment, there was a large volume of documentation in this case. In case management orders made at a preliminary hearing on 6 October 2022, the parties were ordered to exchange documents in January 2023, ahead of the hearing in September 2024. Unfortunately, the parties disagreed significantly about the relevance of many documents to the issues we had to decide. The bundles contained a large number of documents which had little relevance to the issues for us. In total the main and initial supplemental bundles had 16 lever arch files.

13. The bundles contained redactions because of the nature of the claimant's work. In the main, the redactions were of the names and other personal information of students and the families of students at the School. As is clear from the timetable in Appendix A of our reasons, we allowed time at the start of the hearing for the respondent to make a bundle of unredacted copies of the key documents, as we felt it would assist with the understanding of those documents to have full copies of them. The respondent provided further unredacted pages as requested by the claimant up to 11 September. We did not need to refer to any of the unredacted pages in our reasons.

14. Further delay (or a postponement of the hearing) for further discussions about the documents would not have been proportionate or in line with the overriding objective.

15. Point 4: the claimant refers to changes to the witness timetable and says this impacted her preparations. We allowed sufficient time in the timetable for the claimant to prepare her questions to the respondents' witnesses:

15.1 We discussed the witness timetable with the parties on the first day of the hearing, and explained to the claimant that she would have the opportunity to ask questions of the respondents' witnesses.

15.2 We gave the parties a copy of the timetable, and updated it twice to reflect changes. The third and final version of the timetable was produced on 9 September (day 5 of the hearing, the last day of the claimant's evidence).

15.3 There was no hearing on 10 September, the day before the respondents' witnesses started giving evidence.

15.4 We arranged the timetable so that only two of the respondents' witnesses gave evidence on each day, and on each hearing day there was one of the witnesses who had made longer statements and one of those whose statements were shorter. This was done to make preparations more manageable for the claimant.

16. Point 5: the claimant says that key witnesses were not present, referring to two of the respondents' witnesses, Dr Habgood and Mrs Beveridge. The respondents served witnesses statements by those two witnesses, but they were unable to attend the hearing. The respondents invited us to attach what weight we considered appropriate to their written statements. In the event, we did not attach any weight to their statements; our findings of fact which relate to these two witnesses were made on the basis of contemporaneous documents or other factors.

17. Point 7: the claimant refers to confusion with her submission document. The claimant served a written closing comments document by email on 18 September 2024. When reading the document, I noticed that some parts of the document appeared to be extracts from legal advice to the claimant. We stopped reading the document, in case the legal advice had been included by mistake. When the hearing restarted for oral closing remarks, we asked the claimant about this. She said she might have included some legal advice in her written closing comments by mistake, and she asked us to ignore the written document and to consider her oral closing remarks only. We did so. The claimant has now included a copy of her written closing comments in her application document (at pages 7 to 36). (Those pages still include some parts which appear to be advice to the claimant (for example at pages 35 and 36)). As we have made our judgment, it is too late for us to consider these written closing submissions.

18. Point 9: the claimant says that new evidence is available to demonstrate that witnesses and the respondent misled the tribunal. The time to produce evidence was before the hearing, in line with the steps ordered in the case management orders made on 6 October 2022. There is a public interest in the finality of litigation, that is the requirement that disputes should be brought to a proper close rather than running on or being reopened. In order to justify reconsideration on the ground of new evidence, it is necessary to show that the evidence could not with reasonable diligence have been

obtained for use at the original hearing, that the evidence is relevant and would probably have had an important influence on the hearing, and that the evidence is apparently credible. The claimant does not say how these tests are met.

Application document

19. Pages 1 to 106: the claimant has made comments and added page references and extracts from documents to our findings of fact in the reserved judgment and reasons. As we explained in paragraph 24, these findings were made on the balance of probabilities after we heard and weighed up the evidence and considered submissions by the parties. As we say in paragraph 25, the reserved judgment and reasons document does not refer to all the evidence we heard and read during the hearing. We focused on those aspects which were most relevant and of most assistance in relation to the issues for determination by us.

20. Pages 63 and 64: the claimant says she did not state that her suspension was due to her loud voice. The list of issues included in the preliminary hearing case management summary included a complaint of discrimination arising from disability in which the claimant said that her suspension was unfavourable treatment because of something arising in consequence of her disability, namely her shouting and loud voice (paragraphs 14 and 15 of Appendix B). We commented in our reasons that we heard little about this complaint and it did not appear to be a central part of the claimant's claim. We concluded, based on our findings of fact about this, that this complaint did not succeed.

21. Page 72: the claimant says the tribunal failed to consider a detriment intended by Mr Frost and Mr Verma in respect of the telephone conversation with Mr Verma on 22 October 2020. The claimant did not make a complaint of detriment about that telephone conversation. We considered Mr Frost's email about the call (page MB981) and referred to that email in our reasons as part of the background to the claimant's complaints. We did not find it necessary to include the wording of Mr Frost's email in full in our reasons.

22. Page 116 to 131: in the conclusions section of our reasons, the claimant has also made comments on some paragraphs, added page references and website links, and pasted in documents. As we said in paragraph 211 of our reasons, having made our findings of fact and set out a summary of the law, we applied the legal principles to our findings of fact to reach our conclusions on the issues.

23. Overall, we concluded that, while the claimant made protected disclosures, she was not subjected to any detrimental treatment or dismissed because of those disclosures. Further, she was not subjected to any less favourable

or unfavourable treatment because of her disability or anything arising in consequence of it (her shouting or her loud voice).

24. We were satisfied that the reason the claimant was subjected to an investigation and disciplinary proceedings and dismissed was because she was the subject of allegations about her conduct, and because of the view reached by the panel about those allegations (paragraph 244). We decided that the procedure adopted and the decision reached by the panel were within the range of reasonable responses. We also found that, viewed objectively, the claimant's conduct was sufficiently serious to justify summary dismissal.

Summary

25. Our findings of fact and conclusions were explained in detail in the reserved judgment and reasons. Having carefully considered the claimant's application, I have concluded that the application does not disclose any procedural error or any other ground which would make reconsideration necessary in the interests of justice. There is no reasonable prospect of variation or revocation of the original decision. None of the claimant's assertions about the evidence or about the tribunal's findings of fact and conclusions provide a basis for reconsideration of the judgment.

26. The claimant's application for reconsideration is therefore refused under rule 70(2).

Approved by:
Employment Judge Hawksworth

Date: 6 February 2025

Reasons sent to the parties on

13 February 2025

For the Tribunal office