



# EMPLOYMENT TRIBUNALS

**Considered at:** London South

**By:** Employment Judge Tueje

**Claimant:** Ms Temitope Oloyede  
**Respondent:** London Borough of Croydon

**Date of reconsideration:** 5<sup>th</sup> November 2024

## **JUDGMENT ON RECONSIDERATION**

On 23<sup>rd</sup> August 2024 the claimant e-mailed the Tribunal with a request, which was clarified on 12<sup>th</sup> September 2024 to be a request for a reconsideration of the judgment announced by the Tribunal on 9<sup>th</sup> August 2024. The request for reconsideration is refused, and the judgment announced on 9<sup>th</sup> August 2024 is confirmed.

### **REASONS**

There is no reasonable prospect of the original decision being varied or revoked for the reasons set out below.

1. The request for a review is contained in an e-mail. The paragraphs are not numbered.

### **Background**

2. The claimant was employed by the respondent as a newly qualified social worker from 7<sup>th</sup> July 2014 to September 2016. She returned as an agency worker in June 2017. And from 3<sup>rd</sup> April 2018, was employed by the respondent as a social worker in its Transitions Team, until she resigned on 5<sup>th</sup> April 2023. She presented her claim form and the accompanying 7-page grounds of claim to the Tribunal on 25<sup>th</sup> January 2023, while still employed by the respondent.
3. The claim as set out in the claim form and grounds of claim comprised the following complaints:
  - 3.1 Discrimination arising from disability;
  - 3.2 Failure to make a reasonable adjustment;
  - 3.3 Disability-related harassment; and
  - 3.4 Personal injury.
4. At the time her claim was presented, and at the date of the case management hearing on 4<sup>th</sup> October 2024, the claimant was legally represented. By the latter date, the claimant had resigned, but did not and has never applied for permission

to amend the claim to bring any complaints regarding the termination of her employment. The claimant has also not sought to amend her claim to include a complaint that the respondent failed to deal with a grievance, which was not pleaded in the claim form or grounds of claim.

5. At the above-mentioned case management hearing, the Tribunal recorded the list of issues to be determined at the final hearing, which related to the complaints at paragraphs 3.1 to 3.3 above. At paragraph 18 of the case management order, the Tribunal also directed that if the claimant wishes to rely on expert medical in support of her claim for damages for personal injury, she must send an application to the Tribunal and the respondent by 20<sup>th</sup> November 2023. No such application was made.
6. The final hearing took place on 5<sup>th</sup> to 9<sup>th</sup> August 2024, and the written judgment is dated 12<sup>th</sup> August 2024, which included the following decisions:
  - 6.1 The Tribunal found the respondent's decision to withdraw the claimant from the apprenticeship cause was discrimination arising from disability contrary to section 15 of the Equality Act 2010 (see paragraph 1.1 of the judgment)
  - 6.2 An e-mail sent to the claimant on 27<sup>th</sup> September 2022 by the respondent's head of service was discrimination arising from disability contrary to section 15 of the 2010 Act (see paragraph 1.2 of the judgment); and
  - 6.3 An e-mail sent to the claimant on 27<sup>th</sup> September 2022 by the respondent's head of service was harassment contrary to section 26 of the Act (see paragraph 4.1 of the judgment);
7. The claim has been listed for a remedy hearing on 12<sup>th</sup> and 13<sup>th</sup> December 2024.

### **Applications for Reconsideration**

8. By rules 70 and 71 of the Employment Tribunals Rules of Procedure 2013 a Tribunal may reconsider any judgment on the application of a party, where it is necessary in the interests of justice to do so. Under rule 72(1), an Employment Judge shall consider any such request, and:

*“... If the judge considers that there is no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the same application has already been made and refused), the application shall be refused and the tribunal shall inform the parties of the refusal.”*

### **Reasons**

9. The request for reconsideration is brought on 4 grounds, namely that the Tribunal should reconsider the following issues:

- 9.1 The Failure to Address Grievance Procedures and Response to Harassment Complaints
- 9.2 Legal Obligations to Investigate Grievances Thoroughly
- 9.3 Failure to Consider the Removal from the Apprenticeship Course
- 9.4 Impact on Health and Career Progression

10. Each ground is addressed in turn below.

#### The Failure to Address Grievance Procedures and Response to Harassment Complaints

- 11. This matter was not included in the list of issues as a matter for the Tribunal to determine. The list of issues was dealt with by the Tribunal at the case management hearing on 4<sup>th</sup> October 2023 when the claimant was legally represented. There has been no application or request to amend the list of issues. The Tribunal sought clarification from the claimant at the final hearing as to whether the list of issues accurately affected her complaints, and she confirmed through Mr Emmanuel that it did.
- 12. In the Tribunal's judgment, it is not appropriate that a request for a reconsideration deals with matters that could have, but were not, included in the list of issues. We acknowledge that the list of issues are not pleadings, but they inform the way the parties prepare and present their cases, and the substantive decisions the Tribunal makes. Including this matter in the list of issues would have provided the respondent with an opportunity to deal with it in its written and oral evidence, and would have alerted the Tribunal that the issue required determination.

#### Legal Obligations to Investigate Grievances Thoroughly

- 13. This matter is similar to the first ground, and for the reasons stated at paragraphs 11 and 12 above, the Tribunal considers it is not appropriate to deal with this on a request for reconsideration.

#### Failure to Consider the Removal from the Apprenticeship Course

- 14. This matter has already been dealt with, and the Tribunal found that removing the claimant from the apprenticeship course was contrary to section 15 of the 2010 Act (see paragraph 6.1 above).

#### Impact on Health and Career Progression

- 15. This ground reads:

*The mishandling of the grievance, particularly in relation to her exclusion from the apprenticeship course and continued forced interactions with Mr Howell, had a significant negative impact on Ms. Oloyede's health and career.*

...

*The Tribunal's ruling did not assess the full extent of this impact on her health and career, nor did it evaluate how the mishandling of the grievance contributed to her decision to resign.*

16. In the list of issues the claimant contends that some alleged acts of discrimination and harassment have exacerbated her symptoms, but it does not raise personal injury as a separate complaint. The claimant has not adduced expert medical evidence to support her claim.
17. As to the points made regarding the Tribunal not dealing with the claimant's grievance, that is dealt with at paragraphs 11 and 12 above.
18. As to the Tribunal allegedly not dealing with the claimant being removed from the apprenticeship course, that is dealt with at paragraph 14 above.
19. As to the impact, or loss, that the claimant states arises from the respondent's treatment, to the extent she has succeeded in certain aspects of her claim, those losses will be dealt with at the upcoming remedy hearing.
20. The Tribunal did not deal with the claimant's decision to resign because that was not part of the claim nor the list of issues. Accordingly, the Tribunal considers it is inappropriate to deal with this on a request for reconsideration.

## **Conclusion**

21. As the matters raised in the request for reconsideration were either not identified in the list of issues as issues requiring a substantive determination, or relate to issues that have already been determined, the claimant's reasons for requesting a reconsideration do not disclose any arguments that have a reasonable prospect of successfully establishing that it is necessary and in the interests of justice to reconsider the decision.
22. Accordingly, these points fail to pass the sift stage at rule 72(1).

Employment Judge Tueje  
Date: 5<sup>th</sup> November 2024

JUDGMENT SENT TO THE  
PARTIES ON

12<sup>th</sup> November 2024.  
O. Miranda

FOR THE TRIBUNAL OFFICE