Case Number: 2216370/2023

EMPLOYMENT TRIBUNALS

BETWEEN

Claimant	**and**	**Respondent**
Miss C Guinee		**PGMBM Law Ltd**

JUDGMENT ON RECONSIDERATION APPLICATION

HELD AT: London Central (by CVP) **ON: 4 July 2025**

BEFORE: Employment Judge A M Snelson (in chambers)

On reading the written representations of the parties, the Tribunal determines that the Claimant's application dated 6 March 2025 for reconsideration of the judgment sent to the parties following the hearing between 24 February and 3 March 2025 is refused.

REASONS

Introduction

1. By a judgment sent to the parties following a hearing on 24 to 28 February and 3 March 2025, a Tribunal consisting of Ms G Carpenter, Dr V Weerasinghe and me held that the Claimant's complaints of direct discrimination because of disability, direct discrimination because of sex, failure to make reasonable adjustments, victimisation and breach of contract were not well founded. The Tribunal also held that all claims failed on the further ground they have been presented out of time and accordingly it had no jurisdiction to consider them.

2. Written reasons for the judgment were sent on 15 May 2025.

3. In the meantime, by an email dated 6 March 2025 the Claimant stated that she wished to appeal against the Tribunal's judgment, setting out some grounds in support.

4. On my instructions, the Claimant was informed that I intended to treat her message as an application for reconsideration, and to invite representations on behalf of the Respondent before giving my decision upon it. She was also advised that any appeal against a judgment of the Tribunal must be directed to the Employment Appeal Tribunal. This repeated the standard

advice which had accompanied the judgment.

5. On 24 March 2025 written representations were received from the Respondent, contending that there was no ground for entertaining a reconsideration application.

6. Following receipt of the Tribunal's written reasons, the Claimant sent further written representations on 30 May 2025, which I treat as supplementing her application for reconsideration.

The applicable law

7. By the Employment Tribunals Rules of Procedure 2024 ('the 2024 Rules'), rule 68(1) the Tribunal has power to reconsider any judgment where it is 'necessary in the interests of justice' to do so.

8. Rule 70(2) provides that if the Tribunal considers that there is 'no reasonable prospect of the judgment being varied or revoked' the reconsideration application 'must' be refused and the Tribunal must inform the parties of the refusal.

9. At the heart of the Tribunal's procedures generally is the 'overriding objective' of dealing with cases fairly and justly. This includes, so far as practicable, ensuring that the parties are on an equal footing, dealing with cases in ways which are proportionate to the complexity and importance of the issues, avoiding unnecessary formality and seeking flexibility in the proceedings, avoiding delay, so far as compatible with proper consideration of the issues, and saving expense (see the 2024 Rules, rule 3).

10. In *Outasight VB Ltd v Brown* [2015] ICR D11, Her Honour Judge Eady QC (as she then was), sitting in the EAT, observed that the wording of the rule (then rule 70 of the 2013 Rules) allowed Employment Tribunals a broad discretion to determine whether reconsideration of a judgment was appropriate in the circumstances. However, this discretion must be exercised judicially, 'which means having regard not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation'.

The application

11. The application is discursive and unusual. I have approached it by seeking to draw out what appear to be the central arguments or themes.

Analysis

12. <u>Process</u> It is convenient to begin with an observation about procedure to be followed on reconsideration applications. For the avoidance of any doubt, I think it prudent to state that I took no decision under the 2024 Rules, r70(2) (as to whether there was any reasonable prospect of a reconsideration

resulting in the judgment on costs being varied or revoked) prior to instructing the administrative staff to invite the Respondent's comments on the application. The comments were sought because I considered that it would be helpful to receive them before taking my decision under r70(2) and, more generally, because my judicial instinct leans against any determination being made before all affected parties have had a chance to make representations upon it. On further reflection, and having fresh regard to the particular wording of the 2024 Rules, r70(2) and (3) and the remarks of the EAT in *TH White & Sons Ltd v Ms K White* UKEAT/0022/21 and *Shaw v Intellectual Property Office* UKEAT/0196/20, I accept that my approach may not have been in conformity with the appellate guidance, which generally deprecates invitations to the opposing party to comment on reconsideration applications before a decision under r70(2) has been given and further advises that, where such invitations are sent, they should be accompanied by a clear statement that the judge has yet to make his or her decision under r70(2). All this having been said, the point remains that, no r70(2) decision having been taken, my first duty is to address the question which that provision raises. My answer depends on whether, if the judgment on costs was reconsidered, there would be any reasonable prospect of it being varied or revoked.

13. Procedural irregularity or unfairness The Claimant made a number of points to do with the handling of the liability hearing. I find no ground here for reconsidering our decision. As the written reasons explain (para 7), the Tribunal was careful to make adjustments to accommodate the Claimant's disability and to assist her generally to present her case as effectively as possible. It is simply untrue that I shouted at her. It was necessary to intervene quite frequently (reasons, para 6) but there was no unfairness in doing so.

14. Fresh evidence The Claimant seeks (it seems) to rely on fresh evidence, including evidence obtained very recently from an organisation called Verifile. She appears to regard this as relevant to the issue of the Respondent's knowledge of her disability. But she does not demonstrate any remotely arguable ground for reopening the liability hearing in order to consider fresh evidence.

15. Irrelevant matters The Claimant includes a number of points and assertions which appear to have no bearing whatsoever on the question whether the liability judgment should be reconsidered. I decline to engage with them beyond saying that they do not assist me in addressing the application.

16. General challenges The Claimant challenges findings of fact made by the Tribunal. We had the evidence very much in mind at the liability hearing and gave our reasons for the conclusions we arrived at. In her application, she does not point to any material error or misunderstanding on the part of the Tribunal, either on the facts or on the legal reasoning applied to them. I find no reason to contemplate re-opening the dispute on the basis that any part of the Tribunal's decision-making may be flawed and amenable to correction on reconsideration.

Conclusion

17. Having considered this application with care, I am quite satisfied that it must be refused. In essence, the Claimant's case comes down to little more than her view that the Tribunal's decision was wrong. The discretion to reconsider decisions was not created to give disappointed parties a second bite of the cherry. It must not be permitted to undermine the cardinal principle there needs to be finality in litigation. The claims have been carefully canvassed and considered and a fully reasoned decision given on them. Ordinary considerations of justice and in particular the factors to which the overriding objective is directed all argue against entertaining this reconsideration application.

18. Further and in any event, for the reasons fully set out in our original judgment, I am satisfied that there is no reasonable prospect that, following a reconsideration hearing, any part of the Tribunal's decision would be varied or revoked. Accordingly, I must dismiss the application (see the 2024 Rules, rule 70(2)).

19. Finally, I must say that I regret the delay in dealing with this application. As has already been explained, I was not sitting between 9 March and 23 April 2025. I then needed time to produce the written reasons, which were sent out on 15 May 2025. The Claimant's further representations of 30 May 2025 did not come to my attention until well into June and I was again away from 17 June until the end of the month.

_____

EMPLOYMENT JUDGE SNELSON

Date: 4 July 2025

Judgment entered in the Register and copies sent to the parties on 4 July 2025

..... for Office of the Tribunals