



# EMPLOYMENT TRIBUNALS

Claimant: Mr X

Respondent: Ministry of Defence

## JUDGMENT ON APPLICATION FOR RECONSIDERATION

The judgment of the Tribunal is that the Claimant's application dated 1 January 2026 for reconsideration of the Reserved Preliminary Judgment dated 18 December 2025 sent to the parties on 18 December 2025 is refused because there is no reasonable prospect of the decision being varied or revoked.

### REASONS

1. By a Reserved Judgment dated 18 December 2025 and sent to the parties on 18 December 2025, the Tribunal dismissed the complaint of disability discrimination, and pleaded allegations 8,43,45,49,50,51,53,54 & 56 in the Table of Information relating to the discrimination complaints.
2. By an application dated and submitted on 1 January 2026 the claimant sought reconsideration of Paragraphs 56 to 86 of the judgment for reasons set out in a detailed document of 12 pages.

#### The Law

3. Under Rule 68(1) of the Employment Tribunal Procedure Rules 2024, the Tribunal may, either on its own initiative or on the application of a party, reconsider any judgment where it is necessary in the interests of justice to do so. On reconsideration, the decision may be confirmed, varied or revoked.
4. Rule 69 provides that an application for reconsideration under Rule 68 must be made in writing within 14 days of the date on which the decision (or, if later, the written reasons) were sent to the parties.
5. The process by which the Tribunal considers an application for reconsideration is set out in Rules 70(2),(3)(4)&(5).
6. The Tribunal has discretion to reconsider a judgment if it considers it to be in the interests of justice to do so. Rule 70(2) requires the Judge to dismiss the application if the Judge decides that there is no reasonable prospect of the

original decision being varied or revoked. Otherwise, the application is dealt with under the remainder of Rule 70.

7. In deciding whether or not to reconsider the judgment, the Tribunal has a broad discretion, which must be exercised judicially, having regard not only to the interests of the party seeking the 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.
8. The reconsideration rules and procedure are not intended to provide an opportunity for a party to seek to re-litigate matters that have already been litigated, or to reargue matters in a different way. They are not intended to provide parties with the opportunity of a rehearing at which the same evidence and the same arguments can be rehearsed (with or without different emphasis). Nor do they provide an opportunity to seek to present new evidence that could have been presented prior to judgment.
9. Guidance for Tribunals on how to approach applications for reconsideration was given by Simler P in the case of Liddington v 2Gether NHS Foundation Trust UKEAT/0002/16/DA. Paragraphs 34 and 35 provide as follows: "34. [...] *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 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. 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.*"
10. In the case of Outsight VB Limited v Brown 2015 ICR D11 EAT (the "EAT") it was held that an employment judge has a broad discretion to consider whether reconsideration of a judgment is appropriate in the circumstances. However this discretion must be exercised judicially and must have regard not only to the interests of the claimant (as the person making a reconsideration application) but also in the interests of the respondent, as well as the public interest requirement that there should, so far as is possible, be finality in litigation.
11. In coming to a decision whether to grant the claimant's application for reconsideration because it was necessary in the interests of justice to do so, I reminded myself that I must also seek to give effect to the overriding objective in Rule 3 of the ET Rules to deal with cases "fairly and justly" and to be guided by the common law principles of natural justice and fairness.
12. In determining the claimant's application I directed myself that in assessing the "interests of justice" I must make an assessment of all relevant facts and

circumstances of the matter and balance the interests of both parties which includes the principle of finality of litigation.

13. In Fforde v Black EAT 68/60 ("Fforde") the EAT decided that the interests of justice ground of review does not mean:  
*"...that in every case where a litigant is unsuccessful he is automatically entitled to have the tribunal review it. Every unsuccessful litigant thinks that the interests of justice require a review. This ground of review only applies in the even more exceptional case where something has gone radically wrong with the procedure involving a denial of natural justice or something of that order".*

#### The Application

14. In compliance with Rule 69 the claimant's application for reconsideration was made within the required 14 days of the date on which the judgment was sent to the parties.
15. Rule 70(1) requires the Tribunal to consider whether there is any reasonable prospect of the original decision being varied or revoked. The Tribunal is required to 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. The Tribunal has considered the application with this test in mind.
16. I do not rehearse herein each point made by the claimant in the detailed Application. In summary, the claimant seeks to challenge the judgment on the basis that I failed to properly consider, interpret and infer the substance of the complaints made in SC6 relevant to the dismissed allegations were about discrimination and victimisation. Therefore, the dismissed allegations must be permitted to proceed.
17. The respondent in their response dated 11 February 2026 to the application have averred there must be finality in litigation and that this application is a "second bite at the cherry". The application does not refer to or rely upon on any new evidence, or refer to any administrative or procedural irregularity.

#### Decision

18. I have considered the application carefully, and in doing so, have had regard to the interests of justice and the overriding objective as set out in Rule 3 to ensure cases are dealt with fairly and justly. For the reasons set out below, I conclude there is no basis on which it could be said that reconsideration would be in the interests of justice.
- (i) This application is an attempt to relitigate what was explored and ventilated in detail at the preliminary hearing. The claimant seeks to challenge with his further representations of the findings that have been made. It is not the purpose of reconsideration to allow a party to dispute a determination because they disagree or is it an opportunity to rehearse the arguments that have already been made. It is a fundamental requirement of litigation there is certainty and finality. The claimant is respectfully referred to Paragraph 9 above.

- (ii) The application does not raise any procedural error or any other matter which would make reconsideration necessary in the interests of justice.
19. If there was an error of law, this is a matter for appeal to the Employment Appeal Tribunal and not reconsideration. The claimant has not argued or identified an error of law.
- 20 In the circumstances the application for reconsideration of the judgement is refused on the basis that there is no reasonable prospect of it being varied or revoked.

**Approved By  
Employment Judge Bansal  
16 February 2026**