



EMPLOYMENT TRIBUNALS

Claimant: Ms D Schwartzel

Respondent: GMB Union

On: 11 March 2024 (with members),

11 April and 30 April 2024
(before Judge L Brown sitting alone)

16 July 2024
(with members),
28 November 2025
(in chambers with members)

JUDGMENT ON APPLICATION FOR RECONSIDERATION

1. The Costs Judgment was sent to the parties on the 3 December 2025 following a hearing in chambers on the 28 November 2025.
2. On the 10 February 2026 the Claimant applied for Reconsideration of the Costs Judgment.

The Law

3. Rule 68-70 states as follows: -

68. Principles

- (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.*

69. Application for reconsideration

Except where it is made in the course of a hearing, an application for reconsideration must be made in writing setting out why reconsideration is necessary and must be sent to the Tribunal within 14 days of the later of—

- (a) *the date on which the written record of the judgment sought to be reconsidered was sent to the parties, or*
(b) *the date that the written reasons were sent, if these were sent separately.*

70. Process for reconsideration

- (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.*
4. 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 relitigate matters that have already been litigated, or to re-argue 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.”

5. The Claimant's application was not received within the relevant time limit in accordance with Rule 69. However, I have determined that given the complex history of this claim that the application for Reconsideration should be considered despite it being received outside the stated time limit.
6. The application has been copied to the Respondent.
7. The application for reconsideration is made on various grounds in a document numbering 5 pages, and it is not proportionate to repeat them all here.
8. The grounds set out made in support of the application in relation to evidential and procedural matters is an attempt to re-litigate issues which were dealt with in previous hearings.
9. In particular following a hearing on the 16 July 2024 which the Claimant did not attend a Judgment was issued dismissing her claims under Rule 47. It set out the hearings that had taken place to the date of the Judgment, including subsequent hearings listed before me sitting alone to consider the recommendations of the intermediary report. None of these had been attended by the Claimant. It cannot be a ground for reconsideration therefore that she did not know what the intermediary had recommended as the purpose of subsequent hearings before me on the 11 and 30 April 2024 had been to discuss the recommendations. In short however the intermediary had said that no adjustments were required apart from an adjustment of asking her shorter questions during cross examination.

10. The other grounds set out in her application for reconsideration were an attempt to re-litigate issues dealt with in previous hearings and were an attempt to take issue with our findings after the hearing in chambers on the 28 November 2025.
11. The Tribunal has made clear findings of fact. It is not the purpose of a reconsideration application to allow a party to dispute a determination of a finding of fact that it disagrees with or is an opportunity to rehearse the arguments that have already been made. It is a fundamental requirement of litigation there is certainty and finality.
12. The application for reconsideration does not raise any procedural error or any other matter which would make reconsideration necessary in the interests of justice.
13. In the circumstances the application for reconsideration of the judgement is rejected on the basis that there is no reasonable prospect of it being varied or revoked.
14. Accordingly, the application for reconsideration is therefore refused.

Approved by:

Employment Judge Brown

23 February 2026

Judgment sent to the parties on:

24 February 2026

For the Tribunal:

Notes

Judgments (apart from judgments under rule 51) and reasons for the judgments are published, in full, online at www.gov.uk/employment-tribunal-decisions shortly after a copy has been sent to the claimant(s) and respondent(s) in a case.

If a Tribunal hearing has been recorded, you may request a transcript of the recording. Unless there are exceptional circumstances, you will have to pay for it. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings and accompanying Guidance, which can be found at www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/