Case Number: 2404995/2022

EMPLOYMENT TRIBUNALS

Claimant: **Ms C Muswere**

Respondent: **University and College Union**

JUDGMENT

The claimant's application dated 26 January 2026 for reconsideration of the judgment sent to the parties on 13 January 2026 is refused.

REASONS

1. I have undertaken preliminary consideration of the claimant's application for reconsideration of the judgment of the Tribunal awarding the Respondent costs in the sum of £19 000. That application was made by way of email dated 26/1/26. Attached to that email was some additional documents including from the claimant's former school Emmanuel College, the SRA code of conduct and a CAB document about gathering evidence about discrimination at work. The claimant also resent her original response to the costs application, dated 7 April 2025

The Law

2. An application for reconsideration is an exception to the general principle that (subject to appeal on a point of law) a decision of an Employment Tribunal is final. The test is whether it is necessary in the interests of justice to reconsider the judgment (rule 68).

3. Rule 70(2) of the 2024 Rules of Procedure empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked.

4. The importance of finality was confirmed by the Court of Appeal in **Ministry of Justice v Burton and anor [2016] EWCA Civ 714** in July 2016 where Elias LJ said that:

> **"the discretion to act in the interests of justice is not open-ended; it should be exercised in a principled way, and the earlier case law cannot be ignored. In particular, the courts have emphasised the importance of finality (Flint v Eastern Electricity Board [1975] ICR 395) which militates against the discretion being exercised too readily; and in Lindsay v Ironsides Ray and Vials [1994] ICR 384 Mummery J held that the failure of a party's representative to draw attention to a particular argument will not generally justify granting a review."**

5. Similarly in **Liddington v 2Gether NHS Foundation Trust EAT/0002/16** the EAT chaired by Simler P said in paragraph 34 that:

> **"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 by 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."**

6. In **Ebury Partners UK Limited v David [2023] EAT 40** the EAT put it this way in paragraph 24:

> **"The employment tribunal can therefore only reconsider a decision if it is necessary to do so "in the interests of justice." A central aspect of the interests of justice is that there should be finality in litigation. It is therefore unusual for a litigant to be allowed a "second bite of the cherry" and the jurisdiction to reconsider should be exercised with caution. In general, while it may be appropriate to reconsider a decision where there has been some procedural mishap such that a party had been denied a fair and proper opportunity to present his case, the jurisdiction should not be invoked to correct a supposed error made by the ET after the parties have had a fair opportunity to present their cases on the relevant issue. This is particularly the case where the error alleged is one of law which is more appropriately corrected by the EAT."**

7. In common with all powers under the 2024 Rules, preliminary consideration under rule 70(1) must be conducted in accordance with the overriding objective which appears in rule 3, namely to deal with cases fairly and justly. This includes dealing with cases in ways which are proportionate to the complexity and importance of the issues, and avoiding delay. Achieving finality in litigation is part of a fair and just adjudication. Where a party has raised arguments, or had a reasonable opportunity to raise them, it will not generally be in the interests of justice to grant them a second such opportunity.

The Application

8. The Tribunal has done its best to discern the nature of the claimant's challenge to the judgment sent to the parties in January 2026. This has not been an easy task. Many of the documents relied on seem to have no applicability to the costs judgment at all. There is no specific challenge to any finding of the Tribunal which formed part of the costs judgment (at least not one that can be discerned). The claimant does not seem to assert that the Tribunal made an error of law in its approach to determine the application. The claimant brings no new relevant evidence that was not formerly available to her at the last hearing, which it could be said may have a bearing on the decision. The gist of the application seems to be that the original liability hearing should not have been determined until the claim in respect of Burnley College was concluded, and that the costs hearing should not have been determined while there were appeals outstanding against the decision of the Tribunal in respect of the claims against UCU and Burnley College.

9. This is a matter that has been canvassed and determined both in the original liability judgment [paragraphs 4-8] and in the costs judgment [paragraphs 2-3]. In that sense this application represents a "second bite at the cherry".

Conclusion

10. Having considered all the points made by the claimant I am satisfied that there is no reasonable prospect of the original decision being varied or revoked. The points of significance were considered and addressed at the hearing. The application for reconsideration is refused.

Approved by:
Employment Judge SERR
22 February 2026

JUDGMENT SENT TO THE PARTIES ON
16 April 2026

FOR THE TRIBUNAL OFFICE

Notes

Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision. If written reasons are provided they will be placed online.

All judgments (apart from judgments under Rule 51) and any written reasons for the judgments are published, in full, online at *https://www.gov.uk/employment-tribunal-decisions* shortly after a copy has been sent to the claimants and respondents.

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 here:

www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/