EMPLOYMENT TRIBUNALS

Claimant: **Mr R Joseph**

Respondent: **VP Plc**

JUDGMENT ON APPLICATION FOR RECONSIDERATION

In exercise of powers contained in rules 68 and 71 of the Employment Tribunals Rules of Procedure 2024 ("Rules"), the Claimant's application of 30 December 2025 for reconsideration of the judgment given on the 19 September 2025 and issued on the 20 October 2025 is refused because there is no reasonable prospect of the original decision being varied or revoked.

REASONS

The claims of unfair dismissal and race discrimination were not well-founded and were dismissed. The claim of unlawful deduction of wages was withdrawn at the commencement of the hearing.

Principles of Reconsideration

1. Rules 68 to 71 of The Employment Tribunal Procedure Rules 2024 (the "Rules") provide:

Reconsideration of judgments

Principles

68(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.

Application for reconsideration

69. 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.

Process for reconsideration

70.- (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.

Reconsideration by the Tribunal on its own initiative

71. Where the Tribunal proposes to reconsider a judgment on its own initiative, it must inform the parties of the reasons why the decision is being reconsidered and the judgment must be reconsidered (as if an application had been made and not refused) in accordance with rule 70(3) to (5) (process for reconsideration).

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) empowers me to refuse the application based on preliminary consideration if there is no reasonable prospect of the original decision being varied or revoked. 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.

4. In particular, the courts have emphasised the importance of 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." In common with all powers under the Rules, preliminary consideration under Rule 70 (2) must be conducted in accordance with the overriding objective which appears in Rule 3.

6. The interest of justice in this case should be measured as a balance between both parties; both the applicant and the respondent to a reconsideration application have interests which much be regarded against the interests of justice (*Outasight VB Limited v Brown [2014] UKEAT/0253/14*).

7. In *Brown*, Her Honour Judge Eady QC said that the general public also have an interest in such cases because there should be an expectation of the finality of litigation.

8. Consequently, the provision of evidence said to be relevant *after the conclusion of the hearing* will rarely serve to alter or vary the judgment given unless the party seeking to introduce the evidence can show (*Ladd v Marshall [1954] EWCA Civ. 1*):

    8.1. the evidence could not have been obtained with reasonable diligence for use at the trial;

    8.2. the evidence would probably have an important influence on the result of the case; and

    8.3. the evidence must be apparently credible.

Grounds and reasons of reconsideration application

9. The application for reconsideration is made on the basis, in summary that the claimant:

> "*would like paragraph 3.3 reinstated"* Due to a failure to understand the consequences of withdrawal.
>
> "*would like the Tribunal to consider further evidence - namely voicemail recordings and audio recordings*".

Decision on the reconsideration application

10. In respect of the withdrawal of paragraph 3.3. The tribunal has a clear recollection of this at the commencement of proceedings. The Claimant was given an opportunity to address any matters if they were unclear to him to the tribunal within the confines of without prejudice/settlement discussions between the parties. The parties came to a settlement and Mr Joseph was content to withdraw that aspect of the allegations. There was no indication given at any stage that Mr Joseph was unaware or unclear about the terms of the settlement. Accordingly, that part of the application to reconsider is dismissed and nor was it apart of the determination of the claim for the tribunal.

11. It is not the purpose of reconsideration to allow a party to dispute a determination that a party disagrees with. It is a fundamental requirement of litigation that there is certainty and finality. If conclusions made are disputed with regard to whether a correct interpretation of the law was made, they are matters for an appeal which the Respondent is able to make to the Employment Appeal Tribunal.

12. In respect of the additional evidence provided there's no clear explanation submitted by the Claimant as to why these recordings were not provided to the Tribunal/Respondent in advance of the hearing, nor am I persuaded that these recordings would result in any important influence on the result of the case. The voicemail relates to one of the witnesses, Mr Mates rearranging a grievance meeting and the covert recordings relate to a caller having a conversation with a third party who is not audible regarding Mr Joseph's condition.

13. Mr Joseph gave evidence in the hearing in respect of his understanding of the calls and mentioned that he had the covert audio recordings during the proceedings but indicated that you would not be able to hear the person being spoken too in respect of what he understood had been communicated.

14. Our findings are clear in respect of the Tribunal's findings in respect of whether physiotherapy was offered to Mr Joseph and the comments made within meetings. The points of significance were considered and addressed at the hearing. There is a degree of certainty that's required in proceedings and accordingly their applications for reconsideration fail and are dismissed.

15. In view of the above, the determination of this application is that the original judgment is confirmed.

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Employment Judge S Iman
Dated: 29 April 2026