



EMPLOYMENT TRIBUNALS

Claimant: Ms J Nnaji

Respondent: Spar UK Ltd

JUDGMENT

The claimant's application dated **1 June 2026** for reconsideration of the judgment, sent to the parties on **19 May 2026** is refused as it has no reasonable prospects of success.

REASONS

1. Rules 68-70 of the Tribunal Rules provides as follows:

70. 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) ...

2. The Tribunal has discretion to reconsider a judgment if it considers it in the interests of justice to do so. Rule 70(2) requires the judge to dismiss an 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.

3. When deciding what is “necessary in the interests of justice”, it is important to have regard to the overriding objective to deal with cases fairly and justly, which includes: 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.
4. 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.
5. 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.
6. Under the current version of the rules, there is a single ground for reconsideration — namely, “where it is necessary in the interests of justice”. In Outasight VB Ltd v Brown 2015 ICR D11, the EAT explained that the 2013 revision to the rules had not been intended to make it more easy or more difficult to succeed in a reconsideration application. Earlier versions of the rules had included specific examples of potential grounds for reconsideration; the omission of those specific examples did not mean that those things were no longer possible routes to reconsideration; an application relying on any of those arguments can still be made in reliance on the “interests of justice” ground.
7. Previous appellate decisions (even under earlier versions of the Rules) can provide helpful guidance to a judge, but they are not intended as a checklist. The individual circumstances of the particular application have to be considered on their own merits.
8. It is not necessary for the applicant to go as far as demonstrating that there were exceptional circumstances justifying reconsideration. There does, however, have to be a good enough justification to overcome the fact that, when issued, judgments are intended to be final (subject to appeal) and that there is therefore a significant difference between asking for a particular

matter to be taken into account before judgment (even very late in the day) and after judgment.

9. As was stated in Ebury Partners Uk Limited v Mr M Acton Davis: [2023] EAT 40

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.

The application

10. The remedy hearing took place over 2 days, 17 and 18 February 2026 and the decision was reserved.
11. On 1 June 2026 (at 16:49), the Claimant sent an email to the Tribunal which attached an application for reconsideration. The application was in time, and complied with the procedural requirements.
12. The attachment was a 90 page pdf. The first 11 pages were the application itself (a document which bore the date 30 May) and the remainder were appendices.
13. Ground 1, part 1, referred to paragraph 89 of the reasons. The matter alleged to require reconsideration of the judgment is that the Claimant had sent the letter of instruction to the Respondent's representative at 7.37am on Day 2 of the remedy hearing, and the reasons did not mention that.
14. Nothing in paragraphs 5 to 9 of the application provide a reason to reconsider the remedy decision. The reasons as a whole explain what decisions I made about the experts' reports and why.
15. Ground 1, part 2, refers to child care costs. The remedy reasons sets out the decisions, and the reasons for them on the extent to which the Claimant had proved the difference between the “Before” (when working for the Respondent) and the “After” (when working for a different employer).
16. Nothing in paragraphs 10 to 13 of the application provide a reason to reconsider the remedy decision.
17. Ground 2 disputes the assessment that there was a 0% chance of the Claimant being appointed as TPC. This was a finding of fact that I made, having heard all the evidence at each hearing. I consider that the law was stated accurately in the reasons.
18. My decision was based on what this employer would have actually done (in the absence of any unfairness or discrimination). In both hearings, there was

a lot of discussion about the Claimant's previous skills and experience, and about why she believed that she would have been well-suited to the TPC role. My decision on the facts was taken after considering everything that she had to say, but also after hearing the Respondent's evidence about what skills and experience it wanted to have from the person appointed to the TPC role.

19. Nothing in paragraphs 14 to 24 of the application provide a reason to reconsider the remedy decision.
20. Paragraphs 25 to 28 are noted.
 - 20.1. To the extent (if at all) that these points are intended to challenge the decision that there was a 0% chance of the Claimant being appointed as TPC, then I do not agree. The fact that the Respondent was not going to offer the Claimant the TPC post was not a consequence of the timing of the events.
 - 20.2. To the extent that these points are about the MCM post, my liability and remedy decisions gave detailed consideration to the Respondent's insistence that the Claimant give a firm answer by a particular date. My remedy decisions are based on the Claimant's likely responses to the offer of the MCM post in the absence of discrimination and unfairness. I had to answer the question posed at paragraph 121 of the remedy reasons (as well as assess the other matters referred to in that part of the reasons).
21. Nothing in paragraphs 25 to 28 of the application provide a reason to reconsider the remedy decision.
22. Ground 3, part 1, asserts that I treated the decision-making about the TPC job as "binary". My finding of fact is that there was no chance at all that the Respondent would have appointed the Claimant to the TPC post. Had I decided – for example – that there was a 10% chance, then I would have said so, and assessed the compensation accordingly.
23. Nothing in paragraphs 29 to 34 of the application provide a reason to reconsider the remedy decision.
24. Ground 3, part 2, disputes that adequate reasons were given in relation to mitigation. I consider that the reasons as a whole, including paragraph 219, adequately address why I decided that the Respondent had proven that the Claimant had failed to mitigate her loss,
25. Nothing in paragraphs 35 to 37 of the application provide a reason to reconsider the remedy decision.
26. Ground 4 suggests that the arithmetic about loss of income was not set out with sufficient clarity. I do not agree with that suggestion and, in any event, paragraphs 38 to 42 of the application do not provide a basis for

reconsidering the assessment of financial loss.

27. Paragraph 43 of the application is a heading “43. Understatement of remuneration and holiday entitlement”.
28. Paragraph 135 of the remedy reasons describes the salary / bonus for MCM. Starting at paragraph 143, there is discussion about the overall package for the Panasonic job.
29. Taking into account that there was a 64% chance of the Claimant being in the MCM job long term, in the absence of discrimination or unfair dismissal, my decision is that there is no reasonable prospect of the Claimant successfully demonstrating that reassessment of the comparison of the holiday entitlement for the two posts would affect the remedy decision.
30. Paragraphs 47 and 48 of the application are noted, but provide no basis for changing the remedy decisions that were made and explained.
31. Ground 5 is simply a disagreement about whether the written reasons adequately explain why I did not award anything for ongoing financial losses. In particular, the implication is that I placed improper weight on the fact that the Claimant obtained the job with Panasonic and not properly assessed her argument that she will be disadvantaged – because of the Respondent’s discrimination – in the future. I note the Claimant’s opinion, but there is no reasonable prospects of success that I would change the remedy decision based on the arguments in paragraphs 49 to 55 of the application.
32. For the reasons stated above, having considered the application, I am satisfied that there is no reasonable prospect of the original decision being varied or revoked, and the application is refused.

Approved by: **Employment Judge Quill**

Date: 27 August 2026

JUDGMENT SENT TO THE PARTIES ON

1 September 2026

FOR THE TRIBUNAL OFFICE