



EMPLOYMENT TRIBUNALS

Claimant: Mr Anthony O'Connor
Respondent: Mitie Limited
Heard at: London East Tribunal Hearing Centre
On: 11 September 2026 (In Chambers)
Before: Employment Judge Beyzade

Representation

For the Claimant: per claimant's written application

For the Respondent:

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

1. The claimant's application for reconsideration dated 29 June 2026 is refused.

REASONS

1. By an application dated 29 June 2026 and sent to the Tribunal on 01 July 2026, the claimant applies for reconsideration of the Judgment and Written Reasons following the final hearing held on 5 and 6 February 2026.
2. The application relies upon documents which the claimant says were discovered after judgment and which he submits undermine findings concerning chronology, credibility, management knowledge and limitation.

Relevant Rules

3. Rule 68 of the Employment Tribunal Procedure Rules 2024 ("the Rules") provides that the Tribunal may reconsider a judgment where it is necessary in the interests of justice to do so.

4. Rule 69 requires an application for reconsideration to be sent to the Tribunal no later than 14 days after the later of the dates specified in that Rule.
5. Rule 70(2) provides that if the Tribunal considers that there is no reasonable prospect of the judgment being varied or revoked, the application must be refused.
6. I have also had regard to the overriding objective contained in Rule 3, namely, to deal with cases fairly and justly, including avoiding delay, ensuring proportionality, and saving expense. The overriding objective applies to the Tribunal's exercise of powers under the Rules and to the interpretation of the Rules.

Timeliness

7. Written reasons were sent to the parties on 21 May 2026. The claimant's application is dated 29 June 2026 and was sent by email to the Tribunal, copied to the respondent's representative, on 1 July 2026 at 7.00am.
8. The application was therefore made outside the period prescribed by Rule 69.
9. The claimant does not expressly seek an extension of time. The explanation advanced is that the documents were located only after judgment whilst reviewing archived email accounts and attachments, that he represented himself throughout the proceedings, that the omission was inadvertent, and that he acted promptly once the material was discovered.
10. I do not consider that explanation provides a good or satisfactory basis for extending time. The documents relied upon were documents held by, available to, or obtainable by the claimant prior to the Final Hearing. The claimant does not explain why they could not have been located and produced before the Final Hearing through the exercise of reasonable diligence.
11. Nor does he explain why they were not disclosed in accordance with the case management orders made at the Preliminary Hearing on 24 March 2025 requiring disclosure of all relevant documents within a party's possession or control.
12. Taking all the circumstances into account and having regard to the overriding objective (Rule 3), I am not satisfied that it would be in the interests of justice to extend time. To do so would not be consistent with dealing with the case fairly and justly, avoiding delay, or ensuring finality in litigation.
13. The application is therefore refused as being out of time.

Rule 70(2)

14. Even if I were wrong to refuse an extension of time, I would in any event refuse the application pursuant to Rule 70(2) because there is no reasonable prospect of the judgment being varied or revoked.

Fresh Evidence

15. The claimant relies principally upon emails exchanged with Reward Gateway during August 2023 together with other correspondence which he says demonstrates that he was actively pursuing his long-service award during 2023 and was continuing to attempt to resolve the matter internally. He further relies upon an email chain with Lorraine Mansfield, which he contends demonstrates that senior management had earlier knowledge of his concerns, and upon a protocol document which he says explains why he continued to utilise internal procedures rather than commencing proceedings at an earlier stage. He also seeks to place reliance on additional emails contained within Appendix E which he says were recovered after judgment.
16. In considering the fresh evidence the claimant seeks to adduce I have had regard to the well-established principles in *Ladd v Marshall* [1954] 1 WLR 1489. Those principles require an applicant to demonstrate:
 - (a) that the evidence could not with reasonable diligence have been obtained for use at the original hearing;
 - (b) that the evidence would probably have had an important influence on the result; and
 - (c) that the evidence is apparently credible.

First limb

17. I consider that there is no reasonable prospect of the claimant establishing the first limb of the Ladd v Marshall test.
18. The documents relied upon were either within the claimant's possession or control, or obtainable by him before the Final Hearing. The explanation advanced is that they were located only after judgment whilst reviewing archived email accounts and attachments and that their omission was inadvertent. The claimant also explains that he represented himself throughout the proceedings, that he had no intention to withhold any evidence, and that he acted promptly after discovering the material.
19. Those matters do not explain why the documents could not, through the exercise of reasonable diligence, have been located and produced before the Final Hearing.
20. Inadvertence, oversight, or a failure adequately to search one's own emails, email archives or records does not establish that evidence could not with reasonable diligence have been obtained and relied upon at trial.

Second Limb

21. I further consider that there is no reasonable prospect of the claimant establishing the second limb of the Ladd v Marshall test.
22. Even at their highest, AO1 and AO2 demonstrate no more than that by August 2023 the claimant was making enquiries regarding his long-service award and seeking assistance through the Reward Gateway process. There is no reasonable prospect of the claimant establishing that these documents would probably have had an important influence upon the Tribunal's findings. The documents do not constitute a grievance and do not demonstrate that a grievance was submitted during 2023. At most, they show that the claimant was pursuing enquiries regarding the award before the first documented grievance submitted in July 2024.
23. More importantly, there is no reasonable prospect of the claimant establishing that the documents would have had an important influence upon the Tribunal's determination of the limitation issue. At paragraph 116 of the Written Reasons, the Tribunal expressly considered the claimant's case at its highest by assuming, in the claimant's favour, that he had raised a grievance in May 2023. The Tribunal nevertheless concluded that, by no later than June 2023, a reasonable employee in the claimant's position would have appreciated that no long-service award had been issued and that there were grounds to bring a claim, such that the claim would remain out of time even on the claimant's own case. The newly produced documents therefore do not undermine the Tribunal's limitation reasoning.
24. There is likewise no reasonable prospect of the claimant establishing that any of the new documents would alter the Tribunal's conclusion that there was no continuing act or that a just and equitable extension of time should be granted.
25. Nor is there any reasonable prospect of the claimant demonstrating that any of the new documents would probably have had an important influence upon the Tribunal's alternative findings on liability. The Tribunal's liability decision did not turn upon whether the claimant had complained earlier than July 2024. It turned upon the absence of facts from which race discrimination could properly be inferred and, in the alternative, upon acceptance of the respondent's evidence that the delayed award was the product of a systemic reporting failure affecting a substantial number of employees across differing ethnicities.
26. None of the newly produced documents provide evidence that the claimant was treated less favourably because of race. They do not strengthen the comparator evidence. They do not undermine the Tribunal's findings concerning bundle page 102. They do not cast doubt upon the Tribunal's acceptance of the respondent's explanation that the delayed award was caused by a systemic reporting failure rather than race discrimination.

Third Limb

27. Even assuming in the claimant's favour that the documents are apparently credible, there is no reasonable prospect that satisfaction of that limb alone could lead to the judgment being varied or revoked in circumstances where there is no reasonable prospect of satisfying either the first or second limbs.

Overriding Objective and Finality

28. I have also considered the overriding objective and the principle of finality in litigation.
29. The case proceeded to a two-day Final Hearing. Both parties were afforded the opportunity to adduce documentary and oral evidence. Detailed case management directions were made, including disclosure obligations.
30. The claimant now seeks to reopen factual issues that were explored at trial by reliance upon documents which he has not shown could not, with reasonable diligence, have been obtained and relied upon at trial.
31. There is no reasonable prospect of establishing that those documents could not have been obtained with reasonable diligence. Nor is there any reasonable prospect of the claimant establishing that they would probably have had an important influence upon the outcome of the proceedings.
32. In those circumstances, permitting the claimant effectively to re-open the factual case would be inconsistent with the overriding objective and contrary to the important principle of finality in litigation.

Conclusion

33. The application was not made within the period prescribed by Rule 69 and I decline to extend time for the making of the application.
34. Even if time were extended, I would refuse the application pursuant to Rule 70(2) because there is no reasonable prospect of the judgment being varied or revoked.
35. The claimant's application for reconsideration is therefore refused.

Approved By:
Employment Judge B Beyzade
Dated: 11 September 2026