



EMPLOYMENT TRIBUNALS

Claimant: Dr. T Ahmed
Respondent: United Lincolnshire Hospitals NHS Trust
Heard at: Nottingham (In Chambers)
On: 5th July 2021
Before: Employment Judge Heap (Sitting Alone)

JUDGMENT ON RECONSIDERATION

The Claimant's application for Reconsideration is granted and the Judgment dated 9th February 2021 dismissing part of the claim on withdrawal is varied to reflect that there was no withdrawal of the complaints of victimisation. The victimisation complaints will therefore proceed to a hearing.

REASONS

BACKGROUND & THE ISSUES

1. On 9th February 2021 I issued a Judgment dismissing a number of complaints made by the Claimant on withdrawal ("The Judgment"). That withdrawal had been dealt with by the Counsel instructed by the Claimant at a Preliminary hearing on 25th January 2021. One of the complaints recorded as having been withdrawn by the Claimant was a complaint of victimisation.
2. The Claimant has requested that the decision to dismiss the complaints of victimisation on withdrawal be reconsidered. The Respondent resisted that application as they understood the withdrawal by Mr. Matovu to have extended to the complaint of victimisation as recorded in the Judgment.
3. Having reviewed my notes of the hearing on the first opportunity that I was able to attend the hearing centre, it did not appear that the victimisation complaints were withdrawn by Mr. Matovu. That error had occurred as a result of the inclusion of a withdrawal of the victimisation complaints in a letter from the Claimant dated 4th July 2021 which was later replaced by a

letter of 5th July 2021 which did not include that reference. It is plain from my notes that Mr. Matovu confirmed that withdrawal – and therefore dismissal – was limited to those complaints identified in the latter item of correspondence.

4. I had intended to deal with this matter at a further Preliminary hearing which is listed for later this year, if allocated to deal with it, given that all Orders made have presently been stayed but in view of recent correspondence from the Claimant I have dealt with it at this point instead.

THE LAW

5. The procedure and basis for applications for Reconsideration is provided for by Rules 70 to 73 Employment Tribunals (Constitution & Rules of Procedure) Regulations 2013. Under the provisions of Rule 70, a Judgment will only be reconsidered where it is 'necessary in the interests of justice to do so' and a Tribunal dealing with the question of Reconsideration must seek to give effect to the overriding objective to deal with cases 'fairly and justly'. A Tribunal should also be guided by the common law principles of natural justice and fairness when dealing with applications of this kind.
6. The wording 'necessary in the interests of justice' in Rule 70 allows Employment Tribunals a broad discretion to determine whether Reconsideration of a judgment is appropriate in the circumstances. However, this discretion must be exercised having regard not only to the interests of the party seeking the review or 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 (see **Outasight VB Ltd v Brown 2015 ICR D11, EAT**).

CONCLUSIONS

7. I am satisfied that the Judgment was issued in error because the Claimant had not withdrawn the complaints of victimisation. To that extent it is in the interests of justice to vary the Judgment so that the victimisation complaints are neither withdrawn nor dismissed. Those complaints of victimisation will therefore proceed to a hearing.

Employment Judge Heap

Date: 5th July 2021

JUDGMENT SENT TO THE PARTIES ON

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