



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mrs R Kumbharati

v

Network Rail Infrastructure Limited

RECONSIDERATION OF JUDGMENT

The claimant has made an application dated 11 December 2019 for reconsideration of the Case Management Orders and Deposit Orders made by the tribunal on 27 November 2019 and promulgated on 28 November 2019.

The claimant's application has only just been brought to my attention.

The tribunal rules relating to Reconsiderations are found in Rules 70-73 of the Employment Tribunals (Rules of Procedure). Case Management Orders are not judgments which can be reviewed and therefore I do not deal with that part of the claimant's request.

Although it may be arguable that a Deposit Order does not fall within the scope of Rule 70, I will consider the claimant's application for reconsideration of the Deposit Orders.

The claimant explains her application for reconsideration by referring me to the reasons set out in her Further & Better Particulars of June 2019 and August 2019 together with her Equality Act Schedule dated 24 October 2019 and her PIDA Schedule dated 24 October 2019. She also relies on the fact she requested disclosure of information on 14 June 2019 and 8 July 2019. In relation to the time point, she claims all the acts are continuing acts.

At the hearing, she agreed that her claims (with one deletion by her) were set out in the Summary of Claims produced by the respondent. She now alleges that she referred to the protected act of raising concerns about the safe reporting in her ET1 but this was missing from the respondent's Summary of Claims.

I have reconsidered the Judgment in the light of the request and I have concluded that there is no reasonable prospect of the original decision being varied or revoked and I therefore refuse the application.

REASONS

Discrimination Claims

1. The documents relied on by the claimant in her application for reconsideration were before the tribunal at the hearing on 27 November 2019. She submitted very detailed and lengthy schedules in which she identified some of her complaints as 'race discrimination' (in some cases relying on ethnic origin or colour) and others as 'sex discrimination' but has failed to explain any link between the treatment and her protected characteristic. All she has done is made a statement that she believes the treatment was based on her race or her sex and, in some cases, both. Her reconsideration application simply cross-refers to those documents without any signposting of which particular part of the document supports her application.
2. The claimant was given every opportunity to identify why she believed that the way her employer treated her was because of her race or her sex but, other than a comment made in 2017 which was not part of her grievance or her ET1, she had no other grounds other than a difference in treatment and a difference in protected characteristic. In her application for reconsideration, she has not identified any new matters or made any new representations to support her position.
3. In order to succeed in her claims that, on the balance of probabilities she was discriminated against, it is not sufficient simply to rely on the fact of a protected characteristic and the fact of her treatment. As she has failed to identify any evidence of a link between the two, I find that there is little prospect of her discrimination claims succeeding at trial.

Victimisation claim

4. She has failed to show that her grievance was a protected act, or that there were any other protected acts, so I find that her victimisation claim has little reasonable prospect of success.

Public Interest Disclosure claim

5. Even if I accept that she raised concerns about safe reporting and included this in her ET1, this does not change my finding that her public interest disclosure claim has little reasonable prospect of success.

6. I have therefore concluded that there is no reasonable prospect of my original decision being varied or revoked. I am not satisfied that it would be in the interests of justice to vary or revoke my decision.

15 December 2020

Employment Judge Davidson

ORDER SENT TO THE PARTIES ON
16/12/2020

FOR THE SECRETARY OF EMPLOYMENT TRIBUNALS: