



In the Matter of:

VIMALRAJ MANOHARAN,

ARB CASE NO. 2021-0060

PROSECUTING PARTY,

**ALJ CASE NOS. 2018-LCA-00029
2021-LCA-00009**

v.

DATE: May 2, 2022

HCL AMERICA, INC.,

RESPONDENT.

Appearances:

For the Complainant:

Vimalraj Manoharan; *pro se*; Tamilnadu, India

For the Respondent:

R. Blake Chisam, Esq., K. Edward Raleigh, Esq., and Samantha A. Caesar, Esq.; *Fragomen, Del Rey, Bernsen & Loewy, LLP*; Washington, District of Columbia

Before: James D. McGinley, *Chief Administrative Appeals Judge*; Thomas H. Burrell and Randel K. Johnson, *Administrative Appeals Judges*

ORDER DENYING MOTION FOR RECONSIDERATION

PER CURIAM. This case arises under the H-1B visa program of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1101(a)(15)(H)(i)(b) (2014) and 8 U.S.C. § 1182(n) (2013), and its implementing regulations at 20 C.F.R. Part 655, subparts H and I (2020). Vimalraj Manoharan (Complainant) filed a complaint against his former employer, HCL America, Inc. (Respondent), with the Wage and Hour Division of the U.S. Department of Labor (WHD), alleging that Respondent failed to pay him required wages and unlawfully retaliated against him. After an investigation, the WHD determined that Respondent had failed to pay

Complainant all of his required wages and awarded Complainant back wages. The WHD later found that the retaliation claim was not substantiated. Complainant filed objections with the WHD's findings and requested a hearing with an Administrative Law Judge (ALJ).

The ALJ granted summary decision on the back wages claim. Complainant thereafter submitted a motion to recuse the ALJ from the proceedings, which the ALJ denied. Complainant again moved for recusal of the ALJ a few months later, which the ALJ denied. Respondent moved to dismiss the retaliation claim for lack of prosecution, which the ALJ granted.

On April 14, 2022, the Administrative Review Board (Board) affirmed the ALJ's decisions. On April 18, 2022, Complainant filed a Motion for Reconsideration (Motion) seeking reconsideration of our decision. Respondent filed an opposition to Complainant's motion.

The Board is authorized to reconsider a decision upon the filing of a motion for reconsideration within a reasonable time of the date on which the decision was issued. We will reconsider our decisions under limited circumstances, which include: (1) material differences in fact or law from those presented to a tribunal of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the tribunal's decision, (iii) a change in the law after the tribunal's decision, or (iv) failure to consider material facts presented to the tribunal before its decision.¹

¹ *Jinna v. MPRSoft, Inc.*, ARB No. 2019-0070, ALJ No. 2018-LCA-00039, slip op. at 2 (ARB May 26, 2020).

In his motion, Complainant presents only facts and arguments that the Board already considered in his appeal. We therefore determine that Complainant does not present any argument that falls within the four circumstances under which we will reconsider our decisions. Accordingly, we **DENY** his Motion.²

SO ORDERED.³

² Complainant also requests the Board to rule on a reconsideration motion he filed on December 22, 2020, for a previous decision issued in his favor, *Manoharan v. HCL America, Inc.*, ARB No. 2019-0067, ALJ No. 2018-LCA-00029 (ARB Dec. 7, 2020). Respondent did not respond to the motion. In the motion, Complainant seemingly contests the Board's decision to vacate the consolidation of two of his previous appeals and language in the decision explaining that the Administrator of the WHD's determination that an investigation into a retaliation claim was not warranted is not reviewable. Because we discern no material error in the decision, the Motion for Reconsideration dated December 22, 2020, is also denied.

³ Complainant asks the Board to describe the authority supporting its request that parties that appeal a Board decision to a Court of Appeal name the Secretary, Department of Labor, rather than the Board, as the defendant. The Secretary of Labor has delegated authority and assigned responsibility to the Board to act for the Secretary to issue final agency decisions on matters including appeals of the final decisions of ALJs. *See* Secretary's Order No. 01-2020 (Delegation of Authority and Assignment of Responsibility to the Administrative Review Board (Secretary's discretionary review of ARB decisions)), 85 Fed. Reg. 13186 (Mar. 6, 2020). Therefore, the Board's decisions are issued on behalf of the Secretary of Labor.