



**In the Matter of:**

**NALINABAI P. CHELLADURAI,**  
**COMPLAINANT,**

**ARB CASE NO. 03-072**

**ALJ CASE NO. 03-LCA-004**

**v.**

**DATE: July 24, 2006**

**INFINITE SOLUTIONS, INC.,**  
**RESPONDENT.**

**BEFORE: THE ADMINISTRATIVE REVIEW BOARD**

**Appearances:**

***For the Complainant:***

**Nalinabai P. Chelladurai, pro se, Tamil Nadu, India**

**ORDER DENYING RECONSIDERATION**

This case was originally before the Administrative Review Board (ARB or Board) based on a complaint Nalinabai Chelladurai (Chelladurai) filed alleging that her employer, Infinite Solutions, Inc. (ISI), violated the provisions of the Immigration and Nationality Act of 1990, as amended (INA), 8 U.S.C.A. §§ 1101-1537 (West 1999 & Supp. 2004) and the regulations at 20 C.F.R. Part 655, Subparts H and I (2005). After reviewing the record, we determined that ISI had violated the INA by not paying Chelladurai wages starting from January 3, 2001, the date upon which she “entered into employment” with ISI. In a Final Decision and Order dated April 26, 2006, the Board modified the Administrative Law Judge’s decision and ordered the payment of back wages to Chelladurai from January 3, 2001, to April 16, 2001. The Board ordered ISI to pay these back wages at the prevailing wage rate of \$54,558.40 per annum as set forth in the Labor Condition Application (LCA). The Board further denied all pending motions.

On June 13, 2006, Chelladurai filed a Motion for Rehearing with the Board. Chelladurai both asserts error in the Board's decision and makes new points that are immaterial to this case. Asserting error on the part of the Board, Chelladurai argues that the Board should have awarded her back wages not at the \$54,558.40 prevailing annual wage rate set forth in the LCA but at the \$65,000.00 annual wage rate referred to in ISI's offer of employment. *See* Respondent's Exhibit L. Chelladurai states that because the Board failed to use the appropriate wage rate, she will seek recourse in California State Court which, she posits, will rule in her favor. Motion for Rehearing at 3. Chelladurai summarily argues that the Board should have taken the opportunity to set case precedent in its decision and did not issue an impartial decision but favored ISI's position. Chelladurai continues to assert bad faith and bad acts on the part of ISI and its employees, including software theft, perjury, and evidence tampering. Chelladurai further asserts that the Board erred by considering ISI's October 10, 2003 Motion to Re-Open Evidentiary Hearing to Take Additional Evidence, because she does not remember receiving a copy of the motion. Motion for Rehearing at 7. Chelladurai also states that ISI did not provide her with a copy of its January 26, 2003 Closing Argument filed with the Office of Administrative Law Judges. Chelladurai asks the Board to provide her with copies of these two pleadings. *Id.* In further support of her Motion, Chelladurai makes new points that do not pertain to this case. Specifically, Chelladurai alleges that the United States Department of Labor (DOL) has influenced several California state entities, including the Sheriff's Office for Sacramento, California, in their dealings with her. Chelladurai also asserts that the United States Government has violated her human rights by denying visas to her and her family. Motion for Rehearing at 3.

We construe complaints and papers filed by pro se complainants "liberally in deference to their lack of training in the law" and with a degree of adjudicative latitude. *Young v. Schlumberger Oil Field Serv.*, ARB No. 00-075, ALJ No. 2000-STA-28, slip op. at 8-10 (ARB Feb. 28, 2003), citing *Hughes v. Rowe*, 449 U.S. 5 (1980). At the same time, we are charged with a duty to remain impartial; we must "refrain from becoming an advocate for the pro se litigant." *Id.*

In this case, we construe Chelladurai's Motion for Rehearing as a request for reconsideration. The ARB is authorized to reconsider earlier decisions. *See Knox v. United States Dep't of Interior*, ARB No. 03-040, ALJ No. 2001-CAA-3 (Oct. 24, 2005). The Board has adopted principles federal courts employ in deciding requests for reconsideration. We will reconsider our decisions under similar limited circumstances, which include: (i) material differences in fact or law from that presented to a court of which the moving party could not have known through reasonable diligence, (ii) new material facts that occurred after the court's decision, (iii) a change in the law after the court's decision, and (iv) failure to consider material facts presented to the court before its decision. *See, e.g., Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995); *Virgin Atl. Airways, Ltd. v. National Mediation Bd.*, 956 F.2d 1245, 1255 (2d Cir. 1992); *Weinstock v. Wilk*, 2004 WL 367618, at \*1 (D. Conn. Feb. 25, 2004); *Motorola, Inc. v. J.B. Rodgers Mech. Contractors, Inc.*, 215 F.R.D. 581, 582-586 (D. Ariz. 2003).

Chelladurai's argument that the Board should have awarded back wages at a rate other than at the \$54,558.40 prevailing annual wage rate set forth in the LCA, reiterates the argument she made on appeal. Similarly, Chelladurai's assertion of software theft, perjury, and evidence tampering by ISI and its employees, expands on assertions of bad faith and bad acts that she made on appeal. The Board has ruled on these issues and, therefore, we need not address them again on reconsideration. *United States v. Smith*, 781 F.2d 184 (10th Cir. 1986).

Chelladurai's arguments that the Board (1) should have taken the opportunity to set case precedent, and (2) did not issue an impartial decision, neither refer to a difference in fact or law from that presented to the Board, nor refer to a new material change in fact or law, nor point to any failure by the Board to consider material facts. Chelladurai's assertions that (1) the Board erred by considering ISI's October 10, 2003 Motion to Re-Open Evidentiary Hearing to Take Additional Evidence because she does not remember receiving it, and (2) ISI did not provide her with a copy of its January 26, 2003 Closing Argument, are refuted by the record where both documents reflect service to Chelladurai. Further, Chelladurai's allegations that DOL influenced California state entities against her and that the United States Government violated her human rights, raise new points that are immaterial to this case. Because Chelladurai's Motion for Rehearing does not refer to a difference in fact or law from that presented to the Board, or refer to a new, material change in fact or law, or point to any failure by the Board to consider material facts, it does not satisfy any of the above-mentioned circumstances under which we will reconsider our rulings. Therefore, Chelladurai's Motion for Rehearing is **DENIED**.

**SO ORDERED.**

**M. CYNTHIA DOUGLASS**  
**Chief Administrative Appeals Judge**

**WAYNE C. BEYER**  
**Administrative Appeals Judge**