

Fil-kwistjoni tax-xoghol  
bejn  
in-Nigura Malta Limited  
u  
s-Sinjorina Connie Gili

Chairman: G A Craig

Il-Lum 10 ta' Marzu 1978

B'ittra ta' l- 1 ta' Frar 1978 l-Onorevoli Ministru tax-Xoghol, Ghajnuna Socjali u Kultura irreferit lil dan it-Tribunal taht id-disposizzjonijiet tal-artiklu 28 (2) ta' l-Att Nru XXX ta' l-1976, il-kwistjoni tax-xoghol bejn il-partijiet fuq imsemmijja. Dan il-kas huwa dwar tkeccijja tas-Sinjorina Connie Gili mill-Kumpanija Nigura Malta Limited, tkeccijja li l-appellant jallega li kienet ingusta.

2. It-Tribunal zamm sitt seduti li fibom dehru ghan-Nigura Malta Ltd is-Sur Hans T Horde assistit mis-Sur Robert Victor Mifsud u ghall-parti l-ohra is Sinjorina Connie Gili assistita mil Onor. Joseph Grima M.P. F'dawn is-seduti instemghu bhala xhieda is-Sur Robert Victor Mifsud, is-Sur Hans Tone Horde, is-Sur Paul Darmanin, is-Sur Francis Jaccarini, is-Sinjorina Carmen Stivala, is-Sinjorina Dorothy Buhagiar u l-appellant innifisha is-Sinjorina Connie Gili u ghall-Kumpanija is-Sur Hans Tone Horde, u is-Sur Joseph Chetcuti.

Is-Sinjorina Connie Gili giet impjegata man-Nigura Malta Ltd fl-20 ta' Jannar 1977 u l-impjieg taghha gie terminat mis-26 ta' Settembru, 1977, perjodu ta' tmien xhur - l-ewwel tlett xhur ta' l-impjieg kienet 'on probation'.

4. Waqt li s-Sinjorina Connie Gili tallega li t-tkeccijja taghha mill-Kumpanija kienet ingusta, il-Kumpanija issostni li kellha ragunijiet validi biex tkecci lis-Sinjorina Connie Gili, u lill-Labour Office f'ittra tal-11 ta' Ottubru, 1977, informatu li din is-Sinjorina giet imkeccijja ghal ghadd ta' ragunijiet li kienu:

- i She used to punch for another employee against Company rules;

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- ii She refused to perform her own work and adopted a negative attitude towards her employers;
- iii She had fallen behind in her work and had been recently neglecting her duties;
- iv She had passed on confidential information to other employees;
- v She refused to keep the office tidy.

Is-Sinjorina Connie Gili cahdet dawn l-akkuzi kollha.

5. It-Tribunal kellu ta bilfors jidhol bir-reqqa u jezamina kull akkuza m'gjoba kontra s-Sinjorina Connie Gili biex jara jistghux jigu accettati l-ispjegazzjonijiet li tat is-Sinjorina Connie Gili jew jekk le, xi akkuza wahda, jew xi wħud minnhom jew kollha f'daqqa kienux ta' gravita' tali li wasslu għall-piena ta' tkeccijja.

6.1 "She used to punch for another employee against Company rules"

Is-Sinjorina Gili fix-xhieda tagħha ammettiet li hi ppancjat darba għall-gharus tagħha hu u diehel. Ix-xhud, is-Sur Joseph Chetcuti xehed li ghalkemm hu mhux 'in charge' mill-'punching' hu ra lis-Sinjorina Gili tippancja darbtejn.

6.2 "She refused to perform her own work and adopted a negative attitude towards her employers"

Ma kien hemm ebda xhieda li turi li s-Sinjorina Gili qatt irrifjutat li tagħmel xogħolha. Fil-fatt is-Sur Robert V Mifsud qal biss "She refused to do the cleaning duties and the production calculations because she told me that she is not ready to do that work by herself while I am at the office" u mistoqsi meta kien dan, wiegeb "four days before her dismissal". Għal dak li hu 'negative attitude' il-Kumpannija alludiet għal xi rimarki li ssemew min xi xhieda bħal: "This is not my job", "Għax ma tarax tieghek?" jew meta ssuggeriet lil Mr Horde biex inaddaf id-desk tiegħu, jew biex igib lil xi hadd mill-fabbrika biex jagħmel ix-xogħol tal-paper baskets u l-ashtrays, jew biex igib 'cleaner' il-gingħa kollha u xi kliem iehor bħal dan.

6.3 "She had fallen behind in her work and had been recently neglecting her duties"

Is-Sinjorina Gili ammettiet li waqghet lura fix-xogħol tagħha tal-'production' xi tlett jew erba' gingħat.

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6.4 "She had passed on confidential information to other employees"

Il-Kumpannija assumiet li s-Sinjorina Gili wasslet xi informazzjonijiet dwar xi ntqal fuq l-gharus taghha, Paul Darmanin, bejn Mr Horde, Mr Mifsud u Mr Chetcuti, li semghet fil-kamra taghha. Izda is-Sinjorina Gili cahdet li qatt ghamlet dan.

6.5 "She refused to keep the office tidy"

Waqt li s-Sinjorina Gili darba biss irriffjutat xoghol ta' tindif, dan ix-xoghol ma xtaqet qatt taghmlu. Fill-fatt kien sar problema psikologika ghaliha u certament uriet li dan ma kienx xogholha f'hafna okkazzjonijiet.

7. It-Tribunal ha in konsiderazzjoni dak kollu li rrizulta mix-xhieda u dak kollu li gie sottomess miz-zewg rapprezentanti tal-partijiet. Ghas-Sinjorina Connie Gili, ir-rapprezentant taghha ghamel accent kbir fuq l-attitudini tal-Management lejn din l-impjegata. Qal li d-Direttur kien Germaniz imdorri f'dixxiplina li f'zoghzhithu kienet iebesa ghax dak iz-zmien kien jinftegg hekk biex pajjizu jerga' jorfa' rashu mid-dizastru tal-gwerra. Id-deskrivieh bhala esigenti hafna, bhala bniedem regimentat illi jitlob hafna mill-haddiema tieghu. Ta' wara d-Direttur kien bniedem li hadem tlett snin il-Germanja u xorob hafna mill-istess ghajn li xorob id-Direttur Mr Horde. Talab lit Tribunal izomm f'mohhu ukoll li x-xhieda kienu kollha mpjegati tal-Kumpannija u ghal-daqshekk ma setghux juru wisq simpatija mas-Sinjorina Gili fix-xhieda taghhom. Sostna bil-qawwa kollha li lil-Miss Gili ma kienux qalulha li kellha taghmel xi tindif ta' l-ashtrays, telex, wastepaper baskets u id-desks meta ghamlulha l-interview, li anki fejn naqset, naqset biss darba wahda, li hadd qatt ma kien wissaha bil-miktub fejn naqset, li ma kien hemm ebda provi ta' hafna milli qalet il-Kumpannija u li xi xhieda li kien hemm kienet mid-Direttur u l-assistent tieghu li kienu responsabbli ghat-tkeccija tas-Sinjorina Gili.

8. Il-Kumpannija min-nahha l-ohra sostniet li mix-xhieda il-kas taghha kien privat u fejn ma setghetx tipprova, wasslet it-Tribunal biex jasal ghall-konkluzjoni li waslet il-Kumpannija. Sostniet li d-Direttur kellu hafna latitudni, ma kienx iebes izda kien jistenna li kulhadd jaghmel xogholu tajjeb minghajr tfettieg u b'ebda flessjabbilta ghax il-Kumpannija kienet ghadha tibda u riedet tibqa' fuq saqajha.

Il-fatt, sostra ir-rappresentant tal-Kumpannija, li hafna mill-baddiema li kellha f-fabbrika kienu jippruvaw idahhlu lill-membri tal-familja taghhom biex jahdmu mal-Kumpannija kienet prova bizzejjed li t-trattament ma kienx iebes kif riedet taghti x'jifhem il-parti l-ohra. Qalet ukoll "The Company wishes to make it clear that Miss Gili was not dismissed on account of the cleaning incident but on account of all the reasons mentioned before the Tribunal".

### 9.1 Konsiderazzjonijiet Tat-Tribunal

Fuq l-ewwel akkuza ~~ka~~ li s-Sinjorina Connie Gili "used to punch" ghal impjegat iehor, Connie Gili ammettiet li darba ippancjat ghall-gharus taghha hu u diehel, qalet "jiena rajtu ~~gejtu~~ ippancjajtku". Is-Sur Joseph Chetcuti, il-Foreman, meta mistoqsi kemm-il darba ra lil Miss Gili tippancja wiegeb "many times, I cannot say because I am not in charge of the punch clock but I saw her punch twice. The first time I did not bother too much, but the second time it was very clear to me, she was waiting by the side door of the factory, suddenly she started running. I thought that something was wrong. I followed her with my eyes, she went to the punch clock, picked up the card and punched it".

Is-Sinjorina Gili qalet fix-xhieda li ma kienetx taf li dan ma setghetx taghmlu. It-Tribunal ma jistghax jaccetta din l-ispjegazzjoni. Punch clock jissuggerixxi is-sens komun x'inhu l-uzu tieghu u min ghandu juzah, ghax kull impjegat ghandu l-'card' personali tieghu. It-Tribunal sema' xhieda li wahda stqarret li tippancja ghal ohtha, u li huma u hergin hdejn il-punch clock ikunu gegwigija u jippancjaj ghal xulxin. Anki jekk dan kien minnu, il-Kumpannija ma tapprovax dan l-agir u l-'punchclock' huwa hemm biex kull impjegat jippancja hu. Fil-fatt f'hafna milli-Collective Agreements tal-fabbriki mal-General Workers' Union hemm stabbilit din il-klawsola "Employees will become liable to be discharged if they punch the time cards of others or cause others to punch their time-cards". Issa Miss Gili ma kienetx impjegata li kellha tippancja ghax hija ma kienetx 'industrijali' u din il-haga taggrava il-htija.

9.2 Fuq li rrifjutat li taghmel xogholha, it-Tribunal ma kellu ebda xhieda fuq dan jekk alaenu il-Kumpannija ma kelliex f'rasha il-'cleaning'. Fuq dan id-Direttur, Mr Horde, fix-xhieda tieghu qal li ma kienx ikecci impjegat fuq haga zghira  
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bhal din u anki s-Sur Mifsud ghamilha cara li ma kienx il-'cleaning' li wasslet lill-fabbrika ghat-tkeccija ta' Miss Connie Gili izda affarijiet li nstenghu quddiem it-Tribunal. Fuq l-attitudini ta' Miss Gili mad-Direttur u is-Sur Robert Mifsud it-Tribunal sema' kif Miss Gili gieli irrispondiet kemm lid-Direttur u kemm lis-Sur Robert Mifsud.

Mix-xhieda ta' Mr Horde u tas-Sur Mifsud it-Tribunal scra' affarijiet li min wahda li kienet biss ilha tahdem ftit xhur mall-fabbrika ma tistennikomx, bhal meta is-Sur Mifsud qallha ghall-kaligrafija, wiegbitu, "Għax ma tarax tieghek?" Meta d-Direttur sabha darba taqna l-gazzetta u hadlielha, galtlu "issa hemm ta' Mr Mifsud". Mr Mifsud qal ukoll "She told Mr Horde that everyone should clean his place and that Mr Horde should clean his own desk", "That he should get somebody from the production to do this sort of thing or else employ a permanent cleaner", "She told me that my job is in the office helping her with the production papers: that I should not go out as often as I was doing; she even interfered in our affairs and accused me that I was shopping for my wife during office hours". Dawn l-affarijiet ma setghux kief li jaghtu mpressjoni li l-attitudini ta' Miss Gili ma kienetx wisq ta' kooperazzjoni.

9.3 It-Tribunal sar jaf li x-xogħol principali tas-Sinjorina Gili kienu il-'production papers'. Kellha wkoll xogħol iehor klerikali. Is-Sinjorina Gili ammettiet li hi waqghet lura f'dan ix-xogħol xi tlieta jew erba' gimgħat". Is-Sur Robert Mifsud qal li kienu hames gimgħat. Issa dan apparti li kien ix-xogħol principali tagħha kien ukoll xogħol importanti għax l-ewwel gimgħa ta' kull xahar il-figuri kienu jintbagħtu l-Germanja bit-telex. It-Tribunal sar jaf li Miss Gili meta bdiet fuq dan ix-xogħol ma bdiet b'ebda xogħol lura u għal zmien kienet tilhaq tajjeb ma dan ix-xogħol tant hekk, li meta giet mistocsija għal kemm zmien hi kienet bla xogħol lura hi wiegbet "Iva kien hemm zmien twil hafna". Gie zmien li fieh mingħajr l-ebda raguni valida u sekk kien hemm, it Tribunal ma semagħhiex, li marret lura xahar - zmien straordinarjament twil għaliex sa l-ewwel erba jew hames xhur kienet qed tlahaq sewwa ma' dan ix-xogħol. Li wiehed jgħid li anki is-Sur Robert Mifsud kien marlura f'dan l-istess xogħol ma jfisser xejn għax is-Sur Mifsud kien wahdu u kien propju għalhekk li giet

impjogata is-Sinjorina Gili biex is-Sur Mifsud ikun izjed liberu ghal xoghol iehor li kien hemm b'zonn. L-argumenti li waqt is-Sur Mifsud ghamlu bl-'overtime' u thallas ghalih anqas hu validu. Dak kien zmien fejn is-Sur Mifsud ried igib kollox 'up-to-date' halli is-Sinjorina Gili ma tiehux xoghol lura, izda l-ebda management ma jista' b'xi mod jinkoraggi l-ixxi li wiehed imur lura fix-xoghol biex imbaghad jithallas overtime.

9.4 It-Tribunal ma kellux u ma set ~~max~~ ikollu xhieda li is-Sinjorina Connie Gili ghaddiet informazzjoni ta x'semghet waqt konversazzjoni bejn Mr Horde, is-Sur Mifsud u il-Foreman Chetcuti fil-kamra taghha fuq l-gharus taghha. Izda, l-Kumpanija ma kellha ebda trieq oħra ghejr li 'tipprezumi' li din l-informazzjoni li kienet tirrigwarda l-gharus taghha, setghet harget biss min ghand Miss Gili. Miss Gili cahdet li kien hekk. Il-Kumpanija sostniet li ghalkemm ma setghatx tipprova, wasslet lit-Tribunal biex jasal hu għall-konkluzjoni tiegħu. It-Tribunal pero jimxi biss fuq provi.

9.5 L-akkuza li Miss Gili ma zammitx l-ufficju nadif taqa' fuq id-dikjarazzjoni kemm ta Mr Horde fuq dan is-sugget u kemm ta Mr Mifsud.

Award:

Mhabba xi whud min dawn l-konsiderazzjonijiet u fid-dawl ta' dak li ntqal f'Award No 53 tal-Malta Arbitration Tribunal tat 18 ta' Novembru, 1970, para 12.1 fejn qolet:  
 "Recommendation No 119 (International Labour Office) deals with the question of unfair dismissal and in article 2 provides that an employee may not be sacked unless there is a valid reason 'concerned with the capacity or the conduct of the worker or based upon the operational requirements of the undertaking'. 'Capacity' and 'conduct' clearly give us in large measure the concept of 'just cause'," it-Tribunal ma jistax isib favur l-appellant u b'hekk tintemm din il-kwistjoni tax-xoghol bejn iz-zewg partijiet.

(G. A Craig)  
 Chairman

(S Grech)  
 Secretary