TRIBUNAL INDUSTRIJALI

Decizjoni Preliminari Nru 217

KAZ NRU 363

Fit-tilwima tax-xoghol

bejn

it-Taqsima Tessuti, Hwejjeg u Gild tal-G.W.U.

u

l-Kumpanija Model Knitwear Industries Limited

rigward ftehim li ntlahaq fl-10 ta' Settembru, 1984

Data: 29 ta' Marzu, 1985

CHAIRMAN: ANTHONY J BARTOLO MIEEE, TEng, FIElecIE, MBIM, MIIM, MIM.
MEMBRI: JOSEPH G SALIBA
SYDNEY A GATT FCIT.

1. INTRODUZZJONI

(1) Dan il-kaz gie mibghut quddiem it-Tribunal Industrijali mill-Onorevoli Ministru tax-Xoghol u Servizzi Socjali nhar l-14 ta' Frar, 1985 skond il-provvedimenti tal-artikolu 26(2) ta' l-Att XXX ta' 1976 dwar ir-Relazzjonijiet Industrijali u skond il-provvedimenti ohrajn tat-Taqsima III ta' l-istess Att li ghandhom x'jaqsmu mat-temm obligatorju ta' tilwim ta' xoghol.

(2) It-Tribunal Industrijali zamm erba seduti qabel ma wasal ghal din id-decizjoni preliminari.

(3) It-Taqsima Tessuti, Hwejjeg u Gild tal-General Workers' Union hija rapprezentata mis-Sur Edmond Mallia, President tat-Taqsima u mis-Sur Anthony Zarb, Agent Segretarju tat-Taqsima fl-assenza tas-Segretarju tat-Taqsima, is-Sur Arthur Micallef.

Il-Kumpanija, Model Knitwear Industries Limited, hija rrapprezentata mis-Sur Silvio Zammit, Direttur u General Manager tal-Kumpanija li hu assistit mis-Sur Alfred Mallia Milanes għan-nom ta' l-Employers' Association.

2. 'TERMS OF REMIT'

(1) It-'Terms of Remit' tat-Taqsima Tessuti, Ħwejjeg u Gild tal-General Workers' Union huma dawn li jidhru hawn taħt:

'That the Company, Model Knitwear Industries Limited (Gozo), shall honour the Agreement reached by the Company with the Textile, Garment and Leather Workers Section of the General Workers' Union on the 10th September, 1984, copied herewith. If necessary, the Industrial Tribunal is being requested to order the Company to start the negotiations as undertaken in terms of the Agreement'.

(2) It-'Terms of Remit' tal-Kumpanija, Model Knitwear Industries Limited, huma dawn li jidhru hawn taħt:

'(A) That the Company, Model Knitwear Industries Ltd (Gozo) has honoured the Agreement reached with the General Workers' Union on the 10th September, 1984, in that it started negotiations and exchanged proposals with a view to contracting an Industrial Agreement.

(B) In order to conform with the requisites of Maltese Industrial Law and practice, the Company had in its counter proposals asked the General Workers' Union to substantiate its claim to having the required majority in membership of the Company's wholetime work force. This substantiation was not forthcoming from the General Workers' Union; so the Company could not continue with its negotiations, as this would have led to a situation which does not conform with local law and practice and

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would have, therefore, been illegal, unethical and not in the interest of the majority of the wholetime employees of the Company. Rather than settling an already disturbed, situation, this would have involved the Company in more industrial strife.

(C) It is, therefore, being submitted with respect that the Tribunal will:

(i) confirm that the Company is not in a position under current Law and practice to negotiate an Industrial Agreement; and

(ii) order the General Workers' Union to desist from taking any further action in this respect.

3. XHIEDA

(1) Prodotti mit-Taqsima Tessuti, Hwejjeg u Gild tal-General Workers' Union (kif dehru)

- Is-Sur L Cilia Debono, Direttur tax-Xoghol u Emigrazzjoni;
- Is-Sur A Hili, Ufficjal Gholi tad-Dipartiment tax-Xoghol;
- Is-Sur S Cutajar, Rapprezentant tal-General Workers' Union f'Ghawdex;
- Is-Sinjura Antoinette Haber, Membru tal-Kumitat tal-Haddiema tal-M.K.I. Limited;
- Dr Victor Bajada, LL.D., l-avukat tal-Kumpanija, li fferma l-ftehim ta' l-10 ta' Settembru, 1984 mal-General Workers' Union ghan-nom tal-Kumpanija.

(2) Prodotti mit-Tribunal Industrijali (kif dehru)

- Is-Sur Silvio Zammit, Direttur u General Manager tal-Kumpanija, M.K.I. Limited;
- Miss Pauline Tabone, Direttrici tal-Kumpanija.

Wara x-xhieda tas-Sur L Cilia Debono, Direttur tax-Xoghol u Emigrazzjoni, it-Tribunal Industrijali ordna li jitelghu jixhdu x-xhieda kollha fuq punt wiehed biss li kien:-

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'Jekk il-kwistjoni tal-maggornaza ta' membri fil-General Workers' Union u r-rikonoxximent tal-General Workers' Union mill-Kumpanija gewx diskussi fil-laqgha tal-Hadd, 9 ta' Settembru, 1984 li wasslet ghal firmar tal-ftehim ta' l-10 ta' Settembru, 1984 bejn iz-zewg partijiet'.

4. DECIZJONI PRELIMINARI

Wara li studja l-kontenut tat-'Terms of Remit' taz-zewg partijiet li jirreferu ghal-ftehim li ntlahaq bejn l-istess zewg partijiet fl-10 ta' Settembru, 1984; il-kontenut tal-ftehim innifsu u x'intqal mix-xhieda, it-Tribunal Industrijali nnota li:

(1) Il-ftehim ta' l-10 ta' Settembru, 1984 ma ghandu l-ebda provvedimenti rigward il-maggoranza jew le ta' membri tal-General Workers' Union u l-gharfien tal-General Workers' Union mill-kumpanija. Dan il-ftehim gie ffirmat miz-zewg partijiet - jigifieri, mis-Sur Salvino Cutajar ghall-General Workers' Union u mill-Avukat Victor Bajada LL.D. ghall-Model Knitwear Industries Limited, fil-prezenza tas-Sur Anton Hili bhala rappreżentant tad-Direttur tax-Xoghol u Emigrazzjoni, li fferma l-istess ftehim ukoll.

(2) Il-parti l-kbira tax-xhieda qalu li l-punt dwar il-maggoranza tal-membri fil-General Workers' Union u l-gharfien tal-General Workers Union mill-kumpanija ma gewx inqajma waqt il-laqgha tad-9 ta' Settembru, 1984.

(3) Il-punt li jirrigwardja l-maggornaza tal-membri tal-General Workers' Union imqajjem f'din it-tilwima tax-xoghol johloq kaz preliminari fuq konfront mal-ftehim ta' l-10 ta' Settembru, 1984. Decizjoni fuq dan il-kaz preliminari mhiex fil-kompetenza tat-Tribunal Industrijali u ghaldaqstant it-Tribunal ma jistghax ikompli jisma din it-tilwima tax-xoghol qabel jigi riz lut il-kaz preliminari minn Qorti kompetenti.

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F'dan l-isfond, it-Tribunal Industrijali jaggorna 'sine die' u jordna li z-zewg partijiet jiehdu l-kaz preliminari quddiem Qorti ohra, sabiex tkun tista tinghata sentenza jekk il-ftehim ta' l-10 ta' Settembru, 1984 ghandux validita' bhala kuntratt indipendentament mill-meriti l-ohra li qeghdin quddiem dan it-Tribunal Industrijali.

It-Tribunal Industrijali, waqt li jaggorna l-kaz Nru 363 'sine die' sakemm jigi rizolut il-kaz preliminari kif imsemmi hawn fuq, jirrakomanda li ma jkun hemm l-ebda azzjoni li taqgha taht ir-relazzjonijiet industrijali minn xi wahda miz-zewg partijiet, jigifieri li jibqa li 'status quo' sakemm jerga jibda jinstema l-kaz quddiem it-Tribunal Industrijali, kif kostitwit, u jinghata l-Award.

ANTHONY J BARTOLO
Chairman

JOSEPH C SALIBA
Membru

SYDNEY A GATT
Membru

A. BARTOLO PARNIS
Segretarju

Data: 29 ta' Marzu, 1985

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