

INDUSTRIAL TRIBUNAL

DECISION No. 2163

CASE 2650

Employment dispute

between

Katerina Skleranova

and

Verdala International School

concerning dismissal from employment alleged to be unjust.

Date : 16th July 2012

Chairman : George Borg Cardona

This case was referred to the Industrial Tribunal by a Note filed in the Registry of the Court on 5th January 2009.

The Tribunal held 11 sittings.

In view of the fact that appellant, other parties involved and several witnesses were foreigners, all proceedings were conducted in the English language. The decision is therefore also being given in the English language.

Katerina Skleranova, hereinafter referred to as the “appellant”, was assisted by Dr Alessia Zammit Mckeeon and Verdala International School, hereinafter referred to as the “School” was represented by the headmaster, R.D. Pleasance and the Administrator, Charles Zerafa assisted by Dr Hugh Peralta.

Appellant claims her employment was unjustly terminated as there was not good and sufficient cause to justify dismissal.

The School claims that dismissal was justified because through appellant’s acts and omissions in her duties as teacher/invigilator damage was caused to students taking an examination, to other students and to the School. She also endangered the future of the

school by failing to carry out her duties as invigilator correctly which resulted in the University of Cambridge annulling the exam with negative effects on the students and the School's reputation.

The case concerns examinations of the "International General Certificate of Education" (IGCSE) in Information Technology (IT) held by Cambridge International Examinations (CIE) for which the School is a registered centre.

After the first examinations held in April 2008 there were complaints that the examinations had not been run properly. The headmaster investigated and was assured by the appellant that the exam had been run in accordance with the regulations. He was satisfied with this assurance but told the appellant that her husband should not be an invigilator for the second practical exam.

However at the end of August 2008 the School received notification from CIE that they were investigating a case of suspected malpractice in the IGCSE IT exam taken at Verdala on 18 April 2008. The notification stated that 4 students "have the same data base summary report imported into the text document, all displayed in the same unusual way." Appellant was the Supervising invigilator and her husband was the only other co-invigilator. In order that the CIE could investigate the matter further they requested statements from the teacher/invigilator(s) regarding procedures followed, whether candidates had the opportunity to access other systems, handwritten statements from candidates as to what occurred during the tests and a Seating Plan.

The students concerned all confirmed in their statements that they had been helped during the exam and that the time allowed was exceeded. In her statement appellant admitted to giving help to students mostly by general hints and that this was a mistake which would not be repeated. Her husband admitted that he helped the students, mostly by reminding them of menu options to be used and mouse based operations. Following the submission of the statements supplied by the supervising invigilator and the students, the Malpractice Committee of CIE informed the School that on examining these in relation to the exam scripts they found that there was compelling evidence that the malpractice was not limited to only four candidates but to all who sat the syllabus at the Centre. They concluded that all the candidates had been helped by the teacher to complete the exercise and had been allowed more than the specified time to complete the exam. As a result the grades of all candidates were withheld.

From an audit carried out in December 2008 by ECDL it resulted that there was a serious shortcoming in that skills cards were being stamped prior to students undertaking the ECDL test and problems in the operations of the Centre. However instead of withdrawing the licence ECDL Malta gave the test centre at the School a provisional period of 6 months to re-establish its ECDL programme after which there would be an additional audit. This came to light after the dismissal of appellant and does not have a direct bearing on such dismissal but was obviously damaging to the School's reputation.

The Tribunal considered evidence produced by the parties as hereunder .:

Student Eliza Bakardjieva in her evidence confirmed her statement of 13 November 2009 in which she claimed Mr Sklenar helped her to do things and did things of the exam for her. He helped with instructions 30 to 36. He did exercises for her and did things to help many times. Mrs Sklenarova did not help her. She asked her several times but she was busy helping other students and never had time to help her. She maintained that she helped other students by answering questions. When pressed by appellant's lawyer she declared that Mr Sklenar helped her by going close to her, answering her questions and doing certain things on the computer for her. She stated she could not recall the kind of questions as the exam was around 2 years ago but one concerned the movement of a coffee cup that had to be put somewhere which she did not know how to do and he did it for her.

Student Marielle Velandar confirmed her statement of 15 September 2008. She also confirmed the additional information given in the statement of 13 November 2009 in which she stated that she was given help mostly by Mr. Sklenar who sometimes showed her what to do or did the exercise for her. She remembered that he helped her to do instructions 45 and 53. Mrs Skleranova asked her to help other students when she had finished and she helped Talina Dahling.. She stayed until 5 pm. to help out but her friend didn't leave until 7.00 pm. In cross examination she stated that she had a feeling that the exam had not been conducted as she had expected but had not made a complaint to the School. She confirmed that she dictated the statement of the additional information and the headmaster wrote it on a piece of paper. She saw it, confirmed it and signed after it was typed by the headmaster.

Student Talina Dahling confirmed her statements of 1st September 2008 and of 12th November 2009. In the latter she stated that both Mr and Mrs Sklenar helped her, the former by doing some of the exercises for her and the latter by answering questions and telling students what to do and how to do it. Mr Sklenar definitely did instruction 37 for her as she did not know how to do it. He also did the exercise regarding the image of a coffee cup for her. Mrs Skleranova asked Marielle to help others and as she was next to her she helped her. When asked why she did not include the details of the additional information in her original statement she said she did not feel it necessary while in her second statement she had been asked to indicate how she had been helped and by whom. She had been given a copy of the exam paper in order to indicate on which questions she had received help. She could remember that concerning the image of the coffee cup and that she had received help on questions concerning HGML because although she did not know how to do it she answered the question in the exam.

Student Olga Sazhina in her statement of 1st September 2008 said all the candidates were given help by the teachers. In that of 12 November 2009 giving additional information she stated that Mr Sklenar helped her with the exercise about labels. She asked if her work was OK and he changed some things to make it better. He also helped her with other exercises. Mrs Skleranova helped her to do the database exercise. In cross examination she said she could not remember the specific exercises in which she had

been helped but insisted she had been given guidance by Mrs Skleranova. She could remember an exercise involving the image of a teapot.

In a phone conversation between student Luke Chetcuti and the headmaster on 3rd September 2008 the former stated that the invigilators gave him and other students assistance in answering questions in component 2. Also that the exam ran way over the time prescribed. His estimate was between 90 and 120 minutes.

Student Nico Abela stated that Ms Sklenarova did not help anyone and when asked how he knew this he replied that he was seated in the back row and could see the whole area. When evaluating his evidence the Tribunal has to take into account that a student concentrating on his exam could not possibly observe everyone and everything all the time over a period of two and a half hours or more.

The Tribunal noted that in cross examination some of the students were reluctant to indicate the specific items on which they had been given help claiming that since the exam was held almost two years ago it was not easy to remember with certainty. However they insisted that the statements they had given at the time were correct. In one particular exercise, which involved an image and was easy to recall, they confirmed they had been given help to do it. In general they confirmed they had been given help/guidance to carry out some exercises which they did not know how to do.

Appellant and her husband in their evidence strongly denied that they helped students or gave them additional time beyond what was justified or allowed by the regulations.

After considering all the evidence the Tribunal concludes that :

- students were given help beyond what was allowed by the regulations ;
- candidates had been provided with more than the specified time ;

This is supported by the conclusions of the Malpractice Committee of the CIE, who after examining the evidence of the invigilators and students provided by the School found that:

- there was compelling evidence to suggest that the malpractice affected all candidates ;
- all candidates had been helped by the teacher to complete the exercise ;
- they had been provided with more than the specified time

The Tribunal appreciates that appellant and her husband were over zealous to help the students and because of their concern exceeded the limits of prudence. In her statement of 28 August 2008 appellant admits that candidates were given mostly general hints and that this was a mistake that would not be repeated.

Following the Malpractice Report sent by CIE on 2nd July 2008 investigations were carried out by the headmaster and on the basis of the evidence collected appellant was dismissed on 10th September 2008 for “misconduct that has compromised the academic integrity of the School.” She appealed to the Board of Directors who however upheld the headmaster’s decision.

On 19th September 2008 the Malpractice Committee of CIE confirmed the findings of the School and stated that there was compelling evidence of malpractice with regard to help given to candidates and the provision of more than the specified time.

The School had to take action to safeguard its reputation with various educational bodies overseas, to mitigate the risk of losing Accreditation Status and of losing registered centre status from CIE (IGCSE) and the International Baccalaureate.

The Tribunal finds there was justification for the termination of the employment of appellant. It feels that although the errors committed by appellant were due to eagerness to help students, rules of procedure were broken to the detriment of the School’s reputation.

It was not possible for the Tribunal to decide the case within the period established by law because of various deferrals by the parties, the voluminous evidence and the lack of facilities.

For the purposes of Legal Notice Number 48 of 1986 the Tribunal determines the fee of those who assisted the parties in the amount of € 94 (ninety four euros).

Thus it finally determines this employment dispute.

Signed : George Borg Cardona
Chairman

True Copy

Mary Rose Galea
For/Secretary

