TRIBUNAL INDUSTRIJALI

DECIZJONI Nru. 2729

Kaz Nru. 3678 /HW **Fil-Kwistjoni tax-Xoghol**

bejn

Saviour Caruana (KI : 329367 (M)

vs

Malta International Airport plc (C 12663)
(Dwar tkeccija mill-Impjieg allegata li hi ngusta).

Chairman: Is-Sur Harold Walls M.Sc., D.P.M., IPD(UK).

Dan il-Kaz gie referut lit-Tribunal Industrijali permezz ta' dikjarazzjonijiet tar-rikorrent Saviour Caruana li gie pprezentat fir-registru tal-Qorti fil-31 ta' Awwissu, 2018. Matul is-smigh tal-kaz ir-rikorrenti kien assistit mis-segretarju tat-Taqsima tal-U.H.M. is-Sur Ramon Francalanza u mill-Avv.

Andrew Grima u ghas-socjeta ntimata dehret Ms. Tina Lombardi li kienet assistita mill-Avv. Ron Galea Cavallazzi.

Fl'istqarrija tal-kaz ir-rikorrenti jghid, li kien gie ngaggat mas-socjeta bhala Security Assistant b'kuntratt tax-xoghol indefenit. Huwa jghid ukoll, li matul il-perjodu kollu tal-impjieg tieghu mas-socjeta huwa dejjem qeda dmiru tajjeb, minghajr problemi u skond l-istruzzjonijiet li kienu jinghatawlu mis-superjuri tieghu u matul il-hajja ta' l-impieg tieghu f'ghoxrin sena servizz huwa kellu rekord ta' dixxiplina ezemplari.

Ir-rikorrenti jkompli jghid, li meta kien impjegat huwa kien ukoll attiv bhala shop steward tal-UHM Voice of the Workers u ghalhekk kellu involviment fin-negozjati tal-Ftehim Kollettiv di fatti, ftit qabel ma tkecca kien involut fin-negozjati tal-Ftehim Kollettiv bejn is-socjeta u l-Union.

Fl'istqarrija tieghu huwa jghid ukoll li fix-xahar ta' Marzu, tas-sena 2018 inharget "charge" fil-konfront tieghu bl'akkuza taqra "serious negligence at work and dereliction of duty in your role as Security Assistant on the above mentiond dates (27 th February, 2018 and 6th March 2018) when you were deployed in the airport Control Room"

Huwa jghid ukoll, li wara gie stabbilit Board ta' Dixxiplina ai termini tal-Appendix D "Procedure for the Aministration of Discipline" iffirmat fit-2 ta' Novembru, 2010 li jifforma parti mill-Ftehim Kollettiv.

Fl'istqarrija tieghu r-rikorrent ikompli jghid, li f'dawn il-proceduri huwa gie mgharraf li s-socjeta kienet irceviet ittra anonima nhar it-12 ta' Marzu, 2018 li fiha kien allegat li xi mpegat/i posted fil-Control Room ma kienx qeda dmiru sew f'numru ta' dati partikolari u cioe 18/1/18; 03/02/18; 23/02/18; 27/02/18 and 06/03/18.

Huwa jghid ukoll, li fil-kors tal-proceduri tad-dixxiplina hareg b'mod car li l-persuna jew persuni li bghatu dik l-ittra anonima kienet qed tirreferi ghalih.

Ir-rikorrenti jghid ukoll, li matul il-process ta' dixxiplina s-socjeta pprezentat CCTV ghal zewg shifts partikolari li kien xoghol huwa u cioe dak tas-27/28 ta' Frar 2018 u dak tas 6/7 ta' Marzu 2018. Huwa jghid ukoll, footage fir-rigward tad-dati l-ohrajn imsemmija fl-ittra qatt ma gew ipprezntati.

Ir-rikorrenti jkompli jghid, li skond is-socjeta dan il-footage pprezentat juri li huwa ma kienx qieghed jaqdi dmiru b'mod diligenti. Huwa jghid ukoll, li ma qabilx ma din il-verzjoni ghaliex skond huwa kien diligenti f'xogholu, anke f'dawk il-granet partikolari. Huwa jghid ukoll, li kien oltre kif ser jigi ppruvat fis-smiegh ta' din il-kwistjoni, il-footage li ghandha f'idejja s-socjeta bl'ebda mod ma jipprova u tikkonferma l-akkuzi fil-konfront tieghu.

Fl'istqarrija tieghu r-rikorrenti jghid, illi fil-konkluzzjonijiet tieghu l-Board ta' Dixxiplina stabilixxa hekk :-

"The exhibited CCTV footage submitted as evidence by the Company and viewed by the parties, the Chairman and members of the Board of Discipline, concluded that the same footage does not depict the employee as being asleep, however they do show that on repeated occasions at various intervals, the same employee was in positions which do not manifest any concentrated attention towards, viewing the monitors under his control, as is expected of him".

Ir-rikorrenti jghid wkoll, li fl-istess rapport il-Board tad-Dixxiplina elabora mhux hazin dwar is-sitwazzjoni tal-impjieg tieghu u f'paragrafu intitolat "Mintigating Circumstances" qal :-

Security Assistants work twelve hour shifts and are entitled to one thirty and another fifteen minutes breaks during each whole shift. It

results from the oral evidence given by all witnesses that whilst occasionally Security Assistants succed in securing a relivier to take their breaks, not infrequently, because of unavialability of relievers, they are compelled to take their break in the Control Room. This state of affairs is known to members of management, and both management and staff appear to have resigned themselves to accept the status quo, oblivious of the provisions of current statutory obligations.

Irrespective of the fact that both Security Assistants and members of management accept this status quo, the practice infringe the "Minimum Health and Safety Requirements for Work with Display Screen Equipment Regulations" The Board of Discipline made reference in the provisions of Legal Notice 43 of 2002 and concluded that the administration of breaks by the Company is in breach of article 8 of these regulations.

If results from the oral evidence that members of management do not have in place a schedule for regular spot checks of the manner in which surveillance from the Control Room is carried out. It resulted very clearly to the Board that spot checks by Senior Security personnel are few and far in between. It is our considered opinion that there is much room for improvement in this regard. We cannot but agree that, irrespective of the manner in which the impetus for an investigation came about, the Company should not rely on infrequent anonymous

communications to maintain a high level of control over its security activities.

Fl'istqarrija tieghu ir-rikorrenti jkompli jghid, li nonstante kollox wara r-rapport ghadda ghand is-socjeta u ddecidiet li titterminah mill-impieg permezz ta' ittra datata 3 ta' Mejju, 2018.

Ir-rikorrenti jghid ukoll, li wara li gie ntavolat appell ai termini tal-istess Ftehim Kollettiv, is-socjeta kkonfermat id-decizjoni taghha li tittermina l-impjieg tieghu.

Fl'istqarrija tieghu r-rikorrenti jkompli jghid, li s-socjeta lanqas ma ndenjat ruhha li tikkomunika d-decizjoni taghha dwar l-Appell.

Ir-rikorrenti jghid ukoll, li s-socjeta ma rrispetatx prova konklussiva fir-rigward tal-akkuzi, liema prova hija essenzjali meta tinghata l-oghla piena fil-kamp industrijali.

Huwa jghid ukoll, li jekk kemm il-darba t-tezi tas-socjeta hija dik li r-rikorrenti tkecca nvista tal-imgieba tieghu allura, huwa evidenti wkoll

illi l-allegazzjonijiet imsemmija ma kienux gravi li jimmeritaw tkeccija hesrem.

Fl'istqarrija tieghu r-rikorrenti jkompli jghid, li jhoss illi t-tkeccija mill-impjieg kienet sproporzjonata u msejsa fuq allegazzjonijiet inveritieri u mhux ippruvati u/jew ikkoroborati u ghalhekk hija decizjoni ngusta u llecita ghar-ragunijiet li gew spjegati, kif ukoll dawk li ghad irid jigi stabbilit fil-kors tal-kawza.

Huwa jghid ukoll, li ghaldaqstant jitlob umilment lit-Tribunal Industrijali jikkunsidra u jiddeciedi dan il-kaz skond il-Ligi u jiddikjara li t-tkeccija mill-impjieg kienet ingusta u bbazata fuq ragunijiet mhux tajba u sufficjenti skond il-Ligi u jordna dawk il-mizuri kollha mehtiega li taghtih il-Ligi nkluz l-impozizzjoni ta' kumpens xieraq u adegwat skond il-Ligi.

Ghas-socjeta ntimata da parti taghha qalet, li preliminarjament it-talbiet tar-rikorrent huma preskritti ai termini tal-Artikolu 75 (3) tal-Kap 452 tal-ligijiet ta' Malta u ghalhekk ghandhom jigu michuda. Hija tghid ukoll, li minghajr pregudizzju ghas-suespost, is-socjeta kellha ragunijiet tajba u bizzejjed sabiex tittermina l-impjieg tar-rikorrent kif ser jintwera matul il-proceduri skond il-kaz, kemm il-darba dan l-Onorabbli Tribunal ma jilqax l-eccezzjoni preliminari.

Is-socjeta tghid ukoll, li l-impieg tar-rikorrent gie terminat fit-3 ta' Mejju, 2018 u pprezenta r-rikors tieghu fit-3 ta' Settembru, 2018 u ghalhekk ghadda iz-zmien ta' dekadenza ta' erba xhur taht l-artikolu 75 (3) tal-Kap 452. Is-socjeta tkompli tghid, li t-Tribunal Industrijali ghandu jichad li jiehu konjizzjoni tal-kaz peress li skond it-terminu tal-Ligi huwa preskritt.

Is-socjeta tghid ukoll, li r-rikorrent gie moghti "letter of charge" li huwa rcieva fit-13 ta' Marzu, 2018 u wara ghadda process ta' dixxiplina skond il-Ftehim Kollettiv inkluz, li wara li nstab hati mill-Board ta' Dixxiplina huwa appella minn din id-decizjoni quddiem il-Board ta' l-Appell fejn dan il-Board ikkonferma d-decizjoni tal-Board ta' Dixxiplina fejn konsegwentament is-socjeta tterminat l-impieg tieghu.

Is-socjeta tkompli tghid, li thoss li ghanda twiegeb ghal certu allegazzjonijiet tar-rikorrent fosthom;

Ir-rikorrent isemmi l-fatt illi s-socjeta pprezentat quddiem il-Board ta' Dixxiplina CCTV recordings ghal zewg shifts partikolari, izda mhux ghal tnejn ohra li kienu msemmija fl-ittra li rceviet is-socjeta u li minhabba

fiha skattat investigazzjoni. Dan il-fatt jigi mpustat bhala xi forma ta' nuqqas da parti tas-socjeta fil-waqt li ghall-kuntrarju, fl-ewwel lok l-akkuzi kontra r-rikorrent kienu biss fir-rigward ta' dawk id-dati/shifts li ghalihom ingiebet l-evidenza, u fit-tieni lok, l-ohrajn ma ssemmewx ghaliex skond il-ligijiet li jirrigwardjaw il-protezzjoni u l-privatezza tad-data is-socjeta ghandha zmien specifiku li ghalihom izzomm CCTV recordings u wara dawn iridu jithassru. Hekk gara f'dan il-kaz, u ghalhekk, is-socjeta ma ressqet ebda "charge" kontra r-rikorrent ghal dawk id-dati/shifts li ghalihom is-CCTV recordings kienu diga thassru ghaliex kien ghadda r-retention period taghhom .

Is-socjeta tghid ukoll, li r-rikorrent jghid nonostante l-appell interpost ai termini tal-Ftehim Kollettiv vigenti bejn il-UHM Voice of the Workers u s-socjeta konvenuta, din tal-ahhar lanqas ndenjat ruhha tikkomunika d-decizjoni tal-Board ta' Appell, is-socjeta tghid li dan kien sar mhux biss permezz ta' ittra li maghha kienet annessa d-decizjoni izda wkoll, permezz ta' email li maghha wkoll kien hemm annessa kopja tad-decizjoni.

Fl'istqarrija taghha s-socjeta tkompli tghid, li r-rikorrent donnu jattakka d-decizjoni ta' tkeccija l-ewwel ghaliex (skond hu) is-socjeta esponenti ma ressqitx prova konklussiva fir-rigward tal-akkuzi, imbaghad jghid illi

jekk ir-rikorrent tkecca minhabba l-imgieba tieghu, allura din mhix raguni gravi bizzejjed li timmerita tkeccija.

Is-socjeta tkompli tghid li fl-ewwel lok, wiehed ghandu jqis illi l-process ta' dixxiplina adoperat mis-socjeta huwa wiehed mill-aktar elaborat, trasparenti u li jaghti dritt ta' difiza lill-impjegat. Dan isir sabiex l-impjegati tas-socjeta jkollhom kull opportunita jaghmlu l-kaz taghhom quddiem persuni li m'humiex impjegati tas-socjeta, sabiex jigi determinat jekk humiex hatja tal-akkuzi migjuba kontrihom jew le. Mhux biss, izda s-socjeta flimkien mal-Unions li huma partecipi ghall-Ftehim Kollettiv, ghazlu l-individwi li jservu bhala chairpersons tal-Board ta' Dixxiplina u l–Board ta' Appell u llkoll ghandhom esperjenza vasta fil-kamp industrijali, sahansitra li dawk involuti fil-procedura ta' dixxiplina rigwardanti tar-rikorrent it-tnejn servew bhala Chairman jippresjedu dan l-Onorabbli Tribunal.

Ghaldaqstant, m'ghandu jkun hemm ebda dubju dwar l-integrita tal-individwi li jkunu qed jaghrblu l-fatti u l-provi migjuba quddiemhom, illi dawn jaghmlu xogholhom sewwa u b'livel ta' serjeta u maturita komparabbli ma dan l-Onorabbli Tribunal, u dan minhabba l-esperjenza tal-individwi koncernati.

Is-socjeta tghid ukoll, li f'dan il-kaz, ic-"charge" li nharget kontra r-rikorrent fiha zewg akkuzi, senjatament serious negligence at work u dereliction of duty waqt li r-rikorrent suppost kien qieghed jaqdi dmirijietu fil-Control Room tal-ajruport, u dan waqt aktar minn shift wiehed.

Is-socjeta tkompli tghid, li ressqet il-provi taghha u l-membri tal-Board ta' Dixxiplina deherilhom illi dawn il-provi kienu bizzejjed sabiex ir-rikorrent jinstab hati, b'mod specifiku ta' serious negligence (ghalkemm konvenjentement ir-rikorrent ihalli barra din l-ahhar sentenza minn paragrafu tad-decizjoni li huwa kkwotat b'mod inkorret.

Is-socjeta tghid ukoll, li l-Board ta' Appell ukoll ma sab ebda raguni ghaliex ghandu jiddisturba d-decizjoni tal-Board ta' Dixxiplina li ghalhekk giet konfermata.

Fl'istqarrija taghha s-socjeta tkompli tghid, li ghal dawn ir-ragunijiet u abbazi ta' l-analizi maghmula mill-Board ta' Dixxipplina u l-Board ta' l-Appell huwa ferm evidenti li s-socjeta resqet provi bizzejjed sabiex l-impjegat jinstab hati ta' serious negligence li skond il-procedura ta' dixxiplina hija meqjusa bhal serious offence.

Is-socjeta tghid ukoll, li fir-rigward ta' dak li jirrigwardja l-allegazzjoni li din mhix raguni gravi bizzejjed li timmerita tkeccija, is-socjeta ghal darb'ohra tirreferi ghall-procedura ta' dixxiplina paragrafu 3.6 li jaghti l-fakolta u diskrezzjoni lill-Kap Ezekuttiv tas-socjeta li japplika wahda mill-pieni f'paragrafu 4 tal-istess procedura.

Is-socjeta tghid ukoll fl'istqarrija tal-kaz taghha, li l-Ligi taghna ma tghidx x'ghandu jew x'jista jikkwalifika bhala raguni tajba u bizzejjed ghal tkeccija, izda tghid biss (fl'artikolu 36 (14) tal-kap 452) dak li principal ma jistax igib bhala raguni tajba u bizzejjed. Minhabba f'dan, huwa komuni hafna illi dak li jikkostitwixxi (jew li ghandu jitqies illi jikkostitwixxi) raguni tajba u bizzejjed ghal tkeccija jigi maqbul kontrattwalment bejn il-partijiet.

Is-socjeta tkompli tghid hekk ukoll gara f'dan il-kaz, fejn dawk ic-cirkustanzi kollha li huma elenkati f'paragrfu 3.7 tal-procedura ta' dixxiplina gew maqbula li kollha huma serious offences u ta' serjeta tali li jimmeritaw il-pieni f'paragrafu 4 tal-istess procedura inkluz it-tkeccija mill-impjieg.

Fl’istqarrija taghha s-socjeta tkompli tghid, li ghaldaqstant it-tezi tar-rikorrent li sejba ta’ htija ta’ serious negligence mhix raguni gravi bizzejjed li timmerita tkeccija ma ssib ebda konfort, la fil-ligi u lanqas kuntrattwalment fil-Ftehim Kollettiv u ghal kuntrarju, huwa specifikat li sejba ta’ serious negligence hija ta’ natura gravi bizzejjed (kif, tassew, jindika l-isem stess !) li timmerita l-piena maqbula ghal serious offence, inkluz it-tkeccija mill-impjieg.

Is-socjeta tghalaq l-istqarrija tal-kaz fejn tghid li ghaldaqstant, ghar-ragunijiet suseposti, is-socjeta titlob lil dan it-Tribunal, prevja kull provvediment iehor li joghgbu jaghti (inkluz dwar jekk hemmx il-htiega li jitressqu quddiemu l-provi kollha li tresssqu quddiem il-Board ta’ Dixxiplina u l-Board ta’ Appell) joghgbu jichad it-talbiet tar-rikorrent fl-intier taghhom, bl-ispejjez.

Mill-provi jirrizulta li l-impjieg tar-rikkorret gie mitmum fit-3 ta’ Mejju, 2018 u ghamel ir-rikors fil-31 ta’ Awwissu, 2018. Invista ta’ dan gie stabbilit, li huwa ghamel ir-rikors skond il-parametri tal-ligi u konsegwentament is-socjeta ntimata rtirat l-eccezzjoni preliminari.
Mill-provi jirrizulta wkoll, li r-rikorrent kien jahdem bhala Security Assistant ghal madwar ghoxrin sena u l’impieg tieghu gie terminat wara process ta’ dixxiplina. Mill-provi jirrizulta wkoll, li matul il-hajja ta’ l’impieg tieghu huwa qatt ma kellu kazijiet ta’ dixxiplina.

Mill-provi jirrizulta wkoll, li r-rikorrent kien jahdem fil-Control Room tal-Malta International Airport fejn f'din il-kamra hemm erbghatx il-monitor li jimmoniterjaw postijiet strategici.

Mill-provi jirrizulta wkoll, li fil-Control Room hemm haddiema ta' l-army li xogholhom huwa li jimmonitorjaw l-ajru u l-haddiema ta' l-MIA bhalma kien fil-kaz tar-rikorrent kienu jghamlu monitoragg fuq l-area ta' l-art u dawn il-postijiet huma sorveljati 24 siegha kuljum.

Mill-provi jirrizulta wkoll, li s-Security Assistants bhalma kien jokkupa l-grad ir-rikorrent kienu jahdmu shift ta' tnax il-siegha kuljum, li gieli jkunu assenjati xoghol tax-shift ta' fil-ghodu jew shift ta' bil-lejl u matul ix-shift ta' 12 il-siegha huma ntitolati ghal 30 minuta u ta' kwarta break.

Mill-provi jirrizulta wkoll, li s-socjeta rceviet ittra anonima fejn gie ndikat li r-rikorrent ma kienx qed jaqghdi d-doveri tieghu skond kif kien mistenni minnhu.

Wara li s-socjeta kkonfermat l-attegjament tar-rikorrent (skond ir-rapport ta' ittra anonima li rceviet) permezz li ccekkjat mal-filmati li jimmonitorjaw l-imgieba ta' fuq ix-xoghol tal-haddiema nvoluti, s-socjeta harget "charge" lir-rikorrent datat 13 ta' Marzu, 2018 li kien jghid " This letter relates to a report that we received in which it was alleged that an employee of ours was not fulfilling his duties in the Control Room, with specific reference to 18th January, 3rd February, 23rd February, 27th February and 6th March.

Following our preliminary investigation, it is deemed that you have been failing to carry out your duties particularly on the night shifts of the 27th of February, 2018 and the 6th of March, 2018.

As you are surely aware, when deployed in the central control room your duty as a Security Assistant involves the constant supervision and monitoring of the airport premises with the purpose of safeguarding the Company's assets and ensuring that any security breaches are identified immediately and acted upon promptly.

You are therefore being charged with serious negligence at work and dereliction of duty in your role as Security Asisstant on the above mentiond dates when you were deployed in the airport control room.

With specific reference to the Company's Procedure for the Administration of Discipline, the Company sees the circumstances, if

the relevant facts are proved, as constituting a serious offence. You are therefore to consider this as commencement of disciplinary action and you are being suspended on half-pay with immediate effect ”

Waqt il-provi r-rikorrenti jallega li l-ittra annonima kienet saret wara argument li kellu ma Simon Grima li jokkupa l-kariga ta' Senior Assistant fid-Dipartiment tas-Security. Ir-rikorrenti jghid ukoll, li peress huwa kien jokkupa l-kariga ta' shopsteward tal-Union u kienu qed jinnogozjaw il-Fethim Kollettiv, kellu argument ma Simon Grima fejn dan anke rrezenja minn membru tal-Union.

Mill-provi jirrizulta wkoll, li Simon Grima inngega li huwa kellu x'jaqsam ma l-ittra anonima li ntbghatet lill kumpanija.

Mill-provi t-Tribunal Industrijali jirrizultalu, li ghalkemm ir-rikorrent ma kienx instab rieqed pero huwa kien iddeporta ruhu b'tali mod u dan kif kien bil-qeghda fuq is-siggu li ma kienx qed jikkoncentra u jghamel attenzjoni bizzejjed biex josserva l-postijiet li kien responsabbli minnhom. Dwar din l-akkuza rrikorrent jghid, li hu kien qed josserva l-monitors pero matul shift ta' tnax il-siegha kontinwi jghamel monitoring fuq l-iscreens gieli jkun hemm mumenti fejn ihossu xi ftit ghajjien u kull ma ghamel kien li gieli serrah rashu mad-dahar tas-siggu.

Mill-provi jirrizulta wkoll, li ghalkemm is-Security Aassistants huma ntitolati ghal break ta' nofs siegha u ta' kwarta pero minhabba n-nuqqas ta' Security Assistants dawn ma jigux relieved regolarment biex jiehdu l-breaks.

Mill-provi jirrizulta wkoll, li l-breaks jittiehdu fl-istess Control Room fejn waqt li s-Security Assistants jiehdu l-kolazzjon jibqaw jghamlu monotoragg ta' l-iscreens li huma responsabbli minnhom.

Mill-provi jirrizulta wkoll, li fl'istess Control Room hemm haddiema ta' l-Army u dawn jigu relieved regolarment mid-doveri taghhom matul il-perjodu tax-shift li huwa ta' tnax il-siegha wkoll.

It-Tribunal Industrijali jibda biex jikkunsidra diversi aspetti dwar dan il-kaz inkwestjoni u l-ewwel aspett li jikkunsidra huwa l-allegazzjoni tar-rikorrent li l-ittra anonima saret u l-akkuzi li hargu fil-konfront tieghu kienu ghax kien shopsteward u ghax kellu argument ma Simon Grima.

Rigward dan l-aspett it-Tribunal Industrijali jikkunsidra, li l-ewwel lok ma giex ippruvat li l-ittra anonima kienet saret min Simon Grima u fit-tieni lok jekk sar rapport lis-socjeta din kienet fid-dover taghha li tagixxi.

Pero dan it-Tribunal Industrijali huwa obbligat li jikkunsidra l-aspetti kollha dwar dan il-kaz inkwestjoni u dan ghar-raguni li biex jsir apprezzament tal-kaz u l-gustizzja ssehh, wiehed ghandu jhares lejn il-kwadru kollu tal-kaz.

Ghaldaqstant, l-ewwel aspett li jikkunsidra t-Tribunal Industrijali huwa, li l-haddiema tas-Security Assistants kienu jiehdu l-break fl'istess Control Room u waqt li jiehdu l-kolazzjon kienu jibqaw jahdmu. Meta t-Tribunal Industrijali jezamina dan l-aspett jirrizultalu, li s-socjeta kienet qed tikser il-Legislazzjoni Sussidjarja 452.87 "Regolamenti Dwar l-Organizzazzjoni tal-Hin tax-Xoghol" datat 5 ta' April, 2004 fejn klawsola 5 (3) tghid " il-waqfa ta' mistrieh ghandha tkun ghal perjodu mhux interrott ta' mhux inqas minn hmistax-il minuta, u l-haddiem ghandu jkun intitolat li jghaddiha barra mil-lant tax-xoghol".

F'dawn il-kunsiderazzjonijiet it-Tribunal Industrijali jikkunsidra wkoll, li matul ix-shift kollu l-haddiema tas-Security Assistants bhalma kien ir-

rikorrent, kienu jibqaw 12 il-siegha shift kollu fil-Control Room u ghalhekk is-socjeta kienet qed tikser il-ligi ghax il-Legislazzjoni Sussidjara 424.14 l-Avviz Legali 43 ta' l-2002 Regolamenti Dwar Htigijiet Minimi Ta' Sahha u Sigurta F'Xoghol B'Apparat Ta' Wiri Fuq Skrin klawsola (8) tghid " Min ihaddem ghandu jippjana l-attivitajiet tal-haddiem b'mod li x-xoghol ta' kuljum fuq apparat ta' wiri fuq skrin jigi waqqaf f'kull tant zmien b'perjodi ta' mwaqfien jew ta' bdil ta' attivita billi jitnaqqas l-ammont tax-xoghol fuq l-apparat ta' wiri fuq skrin".

Dan ir-regolament tant huwa mportanti li jigi osservat li klawsola 13 ta' l-istess Ligi tghid " Kull ksur ta' xi disposizzjoni ta' dawn ir-regolamenti jitqies bhala reat".

Ghaldaqstant, meta dan it-Tribunal Industrijali jikkunsidra l-aspetti kollha ta' dan il-kaz huwa tal-fhema, li apparti l-kumpanija qed tikser il-ligi u l-kundizzjonijiet tax-xoghol tal-haddiema li huma reati, l-attegjament tal-kumpanija qed ikollu mpatt negattiv fuq il-performance tal-haddiema..

Hija ghal din ir-raguni li l-ligijiet imsemmija jispecifikaw li ghandu jkun hemm breaks reglari u jittiehdu barra l-post tax-xoghol u dan sabiex jevita l-ghejja naturali fuq l-haddiema nvoluti.

Għaldaqstant, dan it-Tribunal Industrijali jikkunsidra li l-ghejja li sofra r-rikorrent giet ikkawzata mill-attegjament tal-management li kien qed jikser il-ligijiet citati f'din id-Decizjoni.

Wara li t-Tribunal Industrijali ra u kkunsidra li statements of case tal-partijiet, semgha u evalwa l-evidenza tax-xhieda prodotti, ra u kkunsidra d-dokumenti esebeti u pprezentati nkluz s-sottomissjonijiet finali u dawk addizjonali tal-partijiet jasal ghal konkluzjoni li kien l-attegjament tal-management tas-socjeta li kien qed jikser il-ligijiet citati f'din id-Decizjoni li wasslu ghal impatt fuq il-performance tar-rikorrent u invista ta' dan it-Tribunal Industrijali jiddeciedi li t-terminazzjoni ta' l-impieg kienet ingusta u bi ksur tal-ligi.

It-Tribunal Industrijali jiddeciedi ukoll, li r-rikorrenti ghandhu jithallas kumpens ta' €12,000 (tnax il-elf ewro) liema kumpens ghandu jithallas minghand Malta International Airport plc (C 12663) fi zmien hmistax il-gurnata mid-data ta' din id-Decizjoni.

Minhabba differimenti mill-partijiet, nuqqas ta' facilitajiet u s-sitwazzjoni tal-COVID 19 ma kienx possibbli li dan il-kaz jigi deciz fi zmien stabbilit mill-ligi.

Ghal-finijiet ta' l-Avviz Legali 48 ta' 1986, jistabilixxi d-drittijiet ta' min assista l-partijiet fl'ammont ta' €94 (erbgha u disghajn ewro).

B'hekk tintemm din il-kwistjoni tax-xoghol.

Iffirmat : Harold Walls

Chairman

Vera kopja

Mary Rose Galea

A/Segretarja

Illum : 6 ta' Mejju, 2021