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Employment Law

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Q1. Sometimes, travelling is part of the job of the employee. Some professions induce the need to move, so an employee cannot refuse it on the grounds that the contract says nothing. During his employment, however, it may request that the scope of displacement is indicated. If it is wide enough, it would be as good as the contract states the arrangements for accommodation and meals. But do not worry, if the contract is silent, the employer is not required to pay less costs (Collins et al, 2005).

The employer has the right to control the movement of employee but it will be difficult to find ways that are not detrimental to individual liberties. By cons, in road transport, the employer not only the right but the duty to install technologies to control the driving time and work.During travel for business purposes, the employee remains in the subordination of the employer; therefore, liable to disciplinary sanctions for misconduct.

However, the labour law specifies that in case of compelling reasons, illness or physical impossibility to move, the employer may consider the employee's excuse to move one location to another as a fault. If the road is impassable and public transport does not work, the employee is not at fault, but it is all about honesty. Between kilometres plugs, blocked roads, trams and trains slowed by snow, it is sometimes difficult to reach the workplace.

Thus, in this particular case, Fred has no right to refuse traveling from one location to another. The employer has the right to send him anywhere during working hour; nevertheless, instructions for business travel must be accurate and accessible. The employer must also assess the risks associated with transportation, fit into the single document and take steps to reduce them. It must do so by combining the HSC and occupational health services. Precautions designed transportation but also passengers. Provision should be made for mobile employees

closer than sedentary and continuing education medical care. Requiring an employee to travel by car against the advice of the occupational physician justifies an act of breach of contract work to harm the employer.

Q2. Employers have the power to cut jobs, within a legal framework on the ground and the removal process. It should be noted that besides the simple deletion of a job:

- Is treated as a cancellation under certain conditions, modification, downward or upward, the length of service of a non-full-time employment;
- More generally, processing a job means removing a job to create a new one (Freedland, 2009).

Whatever the nature of the employment and the statutory position of the employee who occupies deletion of employment should be based on the interest of the service. It may well be motivated by:

- Restructuring of the service;
- A cost saving measure, whatever also the actual financial situation of the community.

If the real reason is not the interest of the service, there is "abuse of power", which makes it illegal to deletion. This is for example the case when the real purpose is:

- To oust the agent performing the job;
- Opposing the reinstatement of an agent at the end of a period of availability;
- To create a higher-level job and to appoint the officer who held the job lost without his functions, which are not modified to match the new job, or this arrangement meets the public interest or better service organisation.

Before any job cuts, the opinion of the joint technical committee is to be taken on the basis of a report submitted by the community or institution.Deliberation removing employment and individual decisions based on it may be illegal for improper consultation includes:

- In the absence of prior transmission elements relating to the proposed job cuts;
- If the information provided is insufficient: employees must be particularly well informed about the nature of jobs, distribution jobs in services and the reason for the deletion. The pattern must be exposed sufficiently precise, but not limited to general considerations.

The withdrawal decision must necessarily be the subject of deliberation: the legislative body, competent only to create jobs is also to remove them.The resolution must be sufficiently precise.If the deleted job was occupied by an agent, the individual decisions arising from the implementation of the resolution are the responsibility of the territorial authority (dismissal of an unlicensed agent, reclassification etc.).

The annual negotiation is required in companies where one or more union branches are present formed by union representatives. This obligation is binding in the presence of union representatives. Therefore, the possibility when there is no union delegate, negotiate collective agreements with elected representatives, appointed an employee or a representative of the local union, does not affect the mandatory annual negotiations. Recall that the appointment of a steward is possible in companies with at least 50 employees. In those organisations that employ fewer than 50 employees, a collective agreement may permit such a designation. In addition, the staff representative may be appointed as a steward for the duration of its mandate.

Thus, in the case of Fred (mentioned in question) employer has all the power to cut jobs and it also has the discretion to choose suitable employees to be redundant according to its own

choice. Thus, the action of the employer is perfectly legal until the above mentioned procedure is followed correctly.

Q3An employer placed under an obligation to dismiss staff for economic reasons must follow a procedure that involves several steps. Failure to comply with this requirement leads to the employee the right to receive damages, the amount of which is determined by the judge.

Before any collective dismissal, the employer must consult staff representatives (shop stewards or the council) the reasons and conditions of layoffs.Prior consultation is optional if only one employee is concerned.The employer is required to submit to representatives all relevant information concerning the projected collective redundancies: economic reasons, the number of redundancies, professional groups, criteria for order of dismissal, estimated timeframe. The consultation was conducted during meetings that allow representatives to give their opinions and suggestions on the implementation of the proposed redundancies. Employer must verify in the collective agreement to which the company if there are additional steps that must be performed in the context of a dismissal.

The employer must notify the employee termination by registered letter with acknowledgment of receipt.The dismissal letter should include:

- Economic reasons by the employer;
- the opportunity to benefit from a contract security professional (CSP), where the company employs less than 1000 employees and the employee has not yet given his answer;
- the opportunity to take a leave of reclassification, if the company has at least 1,000 employees;

- the possibility of receiving a priority for re-employment one year from the termination of the contract and the conditions of its implementation;
- the balance of the number of hours accrued in the individual right to training (DIF) and not used (unless the employee has used all of its rights)

The notice period depends on the number of employees laid off.If fewer than 10 employees are laid over a period of 30 days, the employer shall send the letter of dismissal before a period of 7 working days from the date of the preliminary interview (or 15 working days if individual frame dismissal).From 10 employees over a period of 30 days, the notification letter can be addressed before the expiration of current the date of notification by the employer for the projected redundancies to the Regional Directorate of companies delay of competition, consumer, labour and employment, which varies depending on the number of planned layoffs:

- Less than 100: minimum 30 days;
- Between 100 and 249: minimum 45 days;
- 250: minimum 60 days.

An agreement or a collective labour agreement may provide for more favourable time employees. If the works council (EC) uses the assistance of an accountant, deadlines for submission of letters of dismissal run from the 14^{th}day following the notification of the proposed termination.The employee has 12 months to challenge in court the legality or validity of the dismissal, under following conditions:

- This dispute is likely to invalidate the collective redundancy procedure for economic reasons, because of the absence of inadequacy of backup plan of employment;
- 12 months mentioned in the letter of dismissal.

The employer must convene a preliminary interview with every employee affected by a layoff for economic reasons. This requirement depends on the number of redundancies and the status of the employees concerned. The notice of the preliminary interview is conducted by registered letter or by letter delivered personally against discharge hand.The preliminary interview can take place within 5 working days after the presentation of the letter or the hand delivery against discharge.The invitation letter must specify:

- Object of the meeting, the date, time and place of the interview;
- Opportunity for the employee to be assisted by a person belonging to staff or by a foreign employee to advise the company;
- Details of the council or the labour inspectorate where you can obtain the list of departmental advisors employee.

During the interview, the employer must tell the employee the reason for the proposed decision and receive an explanation. Layoffs cannot be processed until the employer has not responded to the comments of the administration.

Q4.The work accident is the accident arising out of or in the course of work, regardless of the cause. This definition has to be recognised that such accidents events are as diverse as:

- Death of an employee killed in a bank robbery;
- Infarction of an employee who had no pre-existing medical condition;
- Depression of an employee subject to harassment by her supervisor;
- Suicide of an employee distressed by professional goals he feared not reach

It is important to distinguish between accidents and occupational diseases. If an employee gets back pain while lifting a load, it is a work accident. If he has a bad back because his job requires frequent movements of the back, it is an occupational disease. It is necessary that the accident happened at the work place or factory (or during a work assignment).

When the employee is injured at work and cannot work for the rest of the day, the employer must pay him 100% of his salary for that day and the accident register in a register of accidents if the worker can return to work after that day.

When the injured employee cannot continue his work the day after the accident, he should see a doctor and the employer must give him a medical certificate. During the first 14 calendar days after the event, if the worker is absent, employer must pay the employee 90% of his net salary for the days when it would normally have worked. This amount will be reimbursed thereafter. The employer must complete the Employer's Notice and Demand for Payment and give a copy to the employee.

The worker is free to be treated and monitored by a doctor of his choice. However, employer can designate a physician who has access to the medical records of a worker and require the employee to be examined by a doctor of employer’s choice. In this case, employer must pay the costs of consultation and expenses of the worker to get there (Wedderburn, 1986).

To facilitate the rehabilitation of the employee, employer can temporarily assign other tasks. When an employee is reinstated, he must return to work. If the job no longer exists, the employee has the right to be assigned to a similar job with equivalent pay.

Thus, in Fred’s case company is bound to compensate him accordingly.

Q5. The fact remains that in all workplaces, there are employees and supervisors who behave inappropriately. Historically, managers and supervisors use to deal with progressive conditions such disciplinary action, but they are now adopting a positive approach to resolve minor problems, reserving disciplinary approach (progressive discipline) for cases serious misconduct or incompetence.Before resorting to disciplinary action, one must ensure that the employee should have known that some of his actions could result in disciplinary action against him (Collins, 2005).

It is generally believed that bad behaviour of the supervisor or bullying is a matter of acts or verbal comments that could harm "psychologically" to a person or isolate workplace. Sometimes, however, it may take a physical form. Generally found a repetition of incidents or a pattern of behaviour intended to intimidate, offend, degrade or humiliate a person or group of individuals. This phenomenon is also described as the assertion of power through aggression.

There are very few laws regarding health and safety at work dealing with this problem. Some jurisdictions have adopted regulations on violence in the workplace, a problem that is related bullying. Employers are required to protect their employees against any risk at work, whether physical or mental harm. Many employers choose to tackle this problem because these two forms of prejudice can be costly to the organisation.Differences of opinion and even conflicts are not uncommon in the workplace. However, no one should tolerate unreasonable behaviour that hurts or harms.

Bullying is a form of aggression, but the actions that constitute can be both obvious and subtle. It is sometimes difficult to know if there is bullying in the workplace. The difference between effective management and bullying is very subtle. It is not generally considered as

bullying goals comments in order to provide constructive feedback, but rather as an aid for the employee to improve his work.Victims of bullying can react in different ways:

- Shock;
- Anger;
- Frustration or helplessness;
- Sense of vulnerability;
- Lack of confidence;

Apart from psychological effects, such behaviour of the supervisor also has various physical hazards such as:

- Insomnia;
- Loss of appetite;
- Stomach upset;
- Headaches;
- Panic or anxiety, especially before going to work;
- Tension and stress at home;
- Inability to concentrate;
- Discouragement and low productivity.

In Fred's case, this behaviour of his supervisor affects his mental and physical health and the overall "health" of an organisation.

Q6. It was from 1889 that unionism were growing among unskilled workers. The number of union members in Britain rose from 1.6 million in 1891 to 4,000,000 in 1914. William

Beveridge, a Liberal in 1911 establishes the first steps of unemployment benefits. He created the foundation for future Social Security during the Second World War. In Germany, trade unions first appeared in 1860 in Saxony. The mutual aid funds were already numerous at that time. Bismarck, a conservative, created Social Security (Maddison, 2003).

In 1874 and in 1892, two laws extend the protection of women and children. That of November 2, 1892, at eleven fixed the maximum working hours of women and children, and 10 hours for children under the age of 16, and created a weekly rest day. On March 21, 1884, the unions were recognised by the law Waldeck-Rousseau, who was a Liberal. Other measures still follow. On April 9, 1898, a law stated that the owner will be responsible for any accident. In 1904, the working hours were ten hours with an hour break for establishments employing men and women (Jacob, 1997).

UK Labour laws are defined under Employment Relations Act 1999 and the Trade Union and Labour Relations (Consolidation) Act 1992. Although there is no law against refusal of trade union by organisation, nevertheless, such act is termed as union busting. Employers have the right to derecognise the union if the union fails to gather 21 or more members. Thus, in the case of Fred, the behaviour or act of the company is quite legal because the employees of the company failed to gather 21 likeminded people to form the union.

Q7. When a problem like that occurs, the manager or supervisor will determine the severity of the situation and take appropriate action. The manager or supervisor should base their decision on fairness and act in good faith in respect of an employee. Engaging the disciplinary process must be done in a reasonable time after the alleged incident, and whether to take the next step in the process, it should do so without delay.If the disciplinary process leads to a dismissal,

any undue delay may be interpreted as a sign of acceptance of employee behaviour will ensure that it will be difficult to invoke this same behaviour to justify a dismissal.

It is essential to understand that a theft by suspect employee is still presumed innocent until his guilt has not been established. In addition, all cases not necessarily deserve punishment, and should be particularly vigilant about the proportionality of the latter in relation to acts committed by the employee.In addition, only certain situations fall within the sanctioning power of the employer. Thus, it will be appropriate when the theft involves property of the company, its customers, or fellow employee. However, in this case, the employer cannot punish an employee who has committed, outside the company, theft against one of his colleagues (summers, 1969).

Before considering a possible sanction, the employer must be certain acts committed by the employee, and cannot be based on mere suspicion. Evidence of flight should be through legal processes.The employer may use such evidence gathered through a CCTV system installed in the company. However, the use of such a system as well as the use of data collected through it requires compliance with a number of conditions:

- The introduction of video device must be fair and proportionate to the aim pursued and justified by an interest;
- This device should not affect the privacy of employees;
- He must have given rise to information of employees and employee representatives;

The employer may use the data recorded by the CCTV system set up in business, even if it was not originally intended to control employees. Caution, however, this system does not aim to the power of one or more specific individuals employed surveillance.The employer must take

a number of parameters into account before sanctioning the offending employee, such as its age, the modest nature of the thing stolen, or the isolated nature of the incident.

In Fred's case, the supervisor has accused him without any proof which cannot be justified at any cost.

Q8. If the employee wants he can be represented by trade unions, non-union representatives, Occupational group, Shift supervisors, department of the employee etc. However, employees cannot be represented by their wives or relatives who are not the employees of the company.

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