

# INDUSTRIAL TRIBUNAL

## Decision Number 2699

Case No: 3836/JG

In the employment issue

between

Stephanie Justice (K.I. 58645A)

and

Ceevo Financial Services (Malta) Ltd  
(C36102)

*Subject matter: alleged unfair dismissal*

Today: 15<sup>th</sup> January, 2021

**Chairman: Mr Joseph Gerada FCIPD, M.A.(Mediation), IUKB Suisse, Dip.Applied Soc.Stud.,MAAT**

### Introduction

This case was referred to the Industrial Tribunal by means of a petition dated 4<sup>th</sup> May, 2020 by advocate Dr Josephine Farrugia Mifsud on behalf of Ms Stephanie Justice I.D. card 58645A. On the other hand the company Ceevo Financial Services Malta Ltd C 36102 filed its reply in the court's registry bearing the date of the 26<sup>th</sup> June, 2020 and signed by advocates Dr Paul Gonzi and Dr Michael Agius.

In view that the process included foreign nationals, the deliberations were conducted in the English language. This decision is also being served in the English language to facilitate communication.

With regard to article 78 of chapter 452 of the Laws of Malta the Tribunal could not decide this case within the stipulated period due to several deferments requested by both parties.

### Facts of the Case

Ms Stephanie Justice was employed on a full time basis in the role of a Payment Officer on an indefinite contract of employment with Ceeve Financial Services Malta Ltd. She commenced employment on the 14<sup>th</sup> December, 2018. On the 1<sup>st</sup> April, 2020 her employment was terminated following a disciplinary process, which termination, Ms

Justice claims to have been without a good and sufficient cause and therefore not in accordance with chapter 452 of the Laws of Malta.

On the 25<sup>th</sup> February, 2020, the plaintiff drafted a document Dok DM1 which she presented to her CEO namely Mr Detlev Meyer delineating a list of complaints about a number of staff members including;

Mr Detlev Meyer, the CEO,  
Mr Andrea Bocchino, Head of Risk,  
Mr Joshua Jacob Strydom, Head of Compliance and MLRO,  
Ms Silvia Antichi, Accounts Manager,  
Ms Jenna Gicevic, Head of Operations,  
Ms Maria Scicluna, Head of Finance

The CEO, Mr Meyer investigated the allegations in the document by calling in all the persons that Ms Justice had complained about and heard their side of the story. His conclusions are delineated in Dok CV 3 where he found that the complaints made by Ms Justice were not serious or extreme in nature yet blown out of proportion due to the unfounded allegations and exaggerations. Adding the fact that the complaints and therefore the allegations covered 80% of the management team and one senior staff member, this state of affairs caused very serious concern for the CEO and the management team.

In this regard, the CEO considered that the situation justified disciplinary action. A charge letter Dok CV3 was issued and time was allowed for the plaintiff to prepare herself. A disciplinary hearing was conducted on the 20<sup>th</sup> March, 2020 via a video conference. Ms Justice was present throughout the proceedings together with a trusted person of her choice namely Mr Claudio Estefan. Various individuals were called to give their testimony, one after the other and not in each other's presence.

The disciplinary board concluded that the position of Ms Justice in the company was untenable and therefore terminated her employment as per letter Dok CV4 signed by the CEO Mr Detlev Meyer and the plaintiff's manager Mr Thomas Baensch.

### **Considerations**

In this case, the Tribunal is not meant to investigate whether the allegations in Ms Justice's Doc DM1 are substantiated or not, nor whether Ms Justice or the colleagues that she had complaints about were in the right or in the wrong. This is strictly the management's role and the Tribunal will not go into it.

In this case the role of the Tribunal is to evaluate;

- A whether the shortcomings that Ms Justice was found guilty of by the Board of Discipline were serious enough to justify a dismissal.

### **Severity of the shortcomings**

The Tribunal had, apart from the initial and the final submission of the plaintiff, only Dok DM1 to learn about and understand the plaintiff's side of the story. In this regard, the Tribunal notes that Ms Justice's complaints focused mainly on the following four issues;

- (i) that some individuals at the office preferred a cooler temperature for the air-conditioner than she did and so this fact annoyed her,
- (ii) that she becomes upset when managers took action to change the temperature without consulting or obtaining her agreement to such action,
- (iii) that she perceived others to talk behind her back to make her look bad or in the wrong,
- (iv) that she disliked being told what to do, or corrected or inquired upon by others unless the person doing so is her direct manager.

The Tribunal notes that such concerns and behaviours are not unusual at the place of work. People often work out these issues amicably while in some situations management needs to intervene and helps to resolve or mediate the issue. In this case, the situation escalated and as Ms Justice remarked, things were coming to a head, by the week of January 27<sup>th</sup> 2020.

In order for the Tribunal to assess whether there was a good and sufficient cause to terminate her employment, the first task for the Tribunal was to look at Doc DM 1 drawn by Ms Justice to evaluate how she handled her concerns and noted the following:

- 1 Ms Justice used statements like;

Quote; " No one is more important than the other" when she disagreed with Mr Bocchino to lower the temperature of the air-conditioner. Sept 2019

Another quote; " He is not my manager therefore whether I had authorization or not he had no right to ask me this" when Mr Bocchino enquired whether Ms Justice had authorization to leave the office early. Oct 2019

Another quote; "I got up and switched them back on again" when she referred to when Mr Bocchino turned the air-conditioner off as he was feeling hot. Dec 11th

Another quote; “ Tell Andrea Bocchino next time to come and ask me himself instead of involving others” when Ms Justice told off Mr Joshua Jacob Strydom for turned off the air-conditioner”. Jan 27<sup>th</sup>

Such statements were not only leveled at Mr Bocchino but also Ms Maria Scicluna who at the time also covered the Human Resource function. Quote; “Just because she (Ms Scicluna) is too hot doesn’t give her the right to switch off our ACs without asking first” Jan 31<sup>st</sup>. She adds, quote; “No one person is more important than another” when she referred to the direction given by Ms Maria Scicluna regarding the air-condition setting. Feb 2020.

Final quote in this series; “Out of principle I went and turned them both back on” when referring to another quibble about the temperature of the air-conditioner. Jan 31<sup>st</sup>.

The Tribunal notes that such statements by Ms Justice are brush at best and confrontational at worst. They lead one to entrench oneself in a position that makes it so difficult to seek a solution and move on. An opportunity to listen, understand the other party’s point of view and seek a compromise, was missed. Instead, the issues kept escalating.

## 2 Ms Justice used language like;

Quote; “s\*\*\* this stupid thing won’t open” when the computer programme would not open.

Mr Andrea Bocchino objected to the language and Ms Justice’s response to the manager was, quote; “the last time I checked, the company did not belong to him”.

The Tribunal points out that the use of proper language is a sign of respect for all those around and is not a privilege accorded to the owner of the business only. In addition, Ms Justice implored Mr Bocchino that if he had a problem with her language, she would have been happy for him to report her to her manager Mr Thomas Baensch. Nov 2019.

The Tribunal refutes such an attitude not only because it is intrinsically a wrong argument to make but by virtue of the fact that Mr Bocchino is a manager, he was duty bound and obliged to correct such behaviour. Moreover, her manager Mr Baensch, has more important things to do than having to deliver a tutorial in the use of the appropriate language at the office.

This was a good opportunity to acknowledge the mistake and learn from it but instead Ms Justice thought that listening to Mr Bocchino was only a waste of time, quote “ I am not wasting my time on him”. Nov 2019.

In December 2019 Ms Justice described Mr Bocchino's words as quote; "talk crap" and "his 2 pennies worth" when referring to his opinion about the shopping list. In the same incident Ms Scicluna is accused of sitting back and doing nothing. The Tribunal considers such expressions as derogatory and humiliate those on the receiving end. Such words follow a thought process which does nothing to help one build relations at work. In fact Ms Justice seemed to have relationship challenges with almost everyone in the office except her manager and three colleagues namely Charlotte, Chris and Simon who, incidentally did not feature as witnesses.

Another quote from Ms Justice's doc DM1 states; "I did not swear nor raise my voice" when she referred to an incident with Ms Silvia Antichi. The Tribunal hopes that this was the case however it concerns the Tribunal that the plaintiff felt the need to defend herself against swearing and raising her voice. There was already a report filed by Mr Joshua Jacob Strydom where he reported Ms Justice for her crude cursing – Dok CV07.

Another Quote; " Due to Maria (Ms Scicluna) being out of the office ... Andrea B did not have his back up". The Tribunal points out that this is a language of siege and warfare which leads to further entrenchment and hardening of positions.

These quotes point to an attitude of disregard towards colleagues compounded by the fact that they are all Ms Justice's seniors at the office. Such attitude destroys trust, slows down the work and adds costs to the business.

### 3 Ms Justice Dok DM1 shows a degree of judgement about her managers when;

She asked her colleague Indre to be a witness to her when she speaks to Ms Silvia Antichi about the office chair as, according to Ms Justice, the latter could not be trusted with the truth. Jan 2020. Moreover Ms Justice was not in the mood of discussing the issue as in her opinion Ms Antichi felt a sense of entitlement. Quote; " She (Silvia) felt so entitled that she would argue until she was blue in the face". Ms Justice's judgement seems to extend to the neurosciences as well and quote; "She (Silvia) is playing games so that she can get a chair when there is nothing wrong with her". In fact Ms Antichi presented a medical certificate for her condition.

The Tribunal notes with concern the incident of the Jan 2020.

Quote; "due to me (Ms Justice) putting Silvia on the spot and not having time to prepare an answer she became angry and ignorant and raising her voice first and lying to me".

Such games needs to be called by their real name that is manipulation. It is wrong, unprofessional and unacceptable. Ms Scicluna did well when she did not go along with this ploy and kept her objectivity, quote; “ Not once did Maria Scicluna stop her (Silvia)”. Jan 2020.

The Tribunal also takes note of the email dated 4<sup>th</sup> February, 2020 of Mr Thomas Baensch reporting about his instruction to Ms Justice to change her way of communication and to refrain from an offensive voice.

The Tribunal also takes note of the incident that led to the email / warning of the 16<sup>th</sup> March 2020. Ms Justice’s refusal to follow a legitimate order by her Head of Finance and her manager Mr Thomas Baensch constitutes insubordination but it goes further than that. Ms Justices feel she has the authority to censor her manager and her Head of Finance for what she considers to be a wrong direction given to her by them. Such impulsive behaviour is detrimental to the person at the best of times let alone when the person is facing a disciplinary hearing within four days, as was the case with Ms Justice.

The Tribunal concludes that the shortcomings listed above and taken in their totality and complexity are a good and sufficient reason for dismissal.

#### **Effects of the behaviour on company business**

The Tribunal also looked at the effect that the behaviour of Ms Justice was having on the day to day operations of the business.

In October 2019 the company was head hunting for a Team Leader position. By her admission, Ms Justice said that until that stage she would not recommend anyone to come for the interview and work under Ms Jenna G who, according to Ms Justice was wrongfully coached by Mr Andrea B. Such an admission strongly suggests that Ms Justice distrusted the organization so much that she could not even bring herself to entice a valid prospective employee to join the company.

By November 2019 Ms Justice’s had such a negative assessment of the management team; Quote; “ There behaviour for Corporate level management was unacceptable, I know that but I didn’t run like a child to Thomas and put a complaint in every time this happened, if I had I would have never have been out of Thomas’s office”.

Such an admission of lack of confidence in her seniors corroborates her earlier position not to recommend anyone for the role of a team leader with Ceevo.

Moreover, Mr Meyer pointed out that all the management team were accused of something by Ms Justice except her manager. He added that when he asked them for their

version of the facts, none of them agreed to any of the accusations – sitting of the 3<sup>rd</sup> July page 7. This denotes that Ms Justice carries little or no credibility in the eyes of almost all the seniors in the organization.

Ms Silvia Antichi Dok VO8 states that it is not nice to work in a place where any action is constantly monitored, judged, misunderstood, pointed out in a wrong way by another person – this is creating a stressful atmosphere and disrupting my attention on more important matters such as carrying out my duties for which I am appointed for.

Ms Jenna Gicevic Dok VO9 states that she never confronted Ms Justice. “To be honest, I was afraid it would lead to physical attack”.

She also felt embarrassed by Ms Justice’s behaviour when the latter locked the pedestal of the desk that Ms Gicevic was temporarily using. “I felt like I wanted to shake and I wanted to cry” – sitting of the 18<sup>th</sup> September 2020 page 3.

Mr Thomas Baensch the manager of Ms Justice said that such a case was a first for him and at the time was consuming a lot of his time which he estimated to be at least one hour a day for a two or three week period. The Tribunal noted the objectivity and patients of Mr Thomas Baensch towards Ms Justice who even in the face of complaints from his peers did not give up on her and tried his best to stair her in the right direction. In this regard, the fact that the letter of termination bears his signature as well is most significant.

The defendant used the word “toxic” when describing the situation at the office created by Ms Justice – initial submissions.

The Tribunal concludes that the company was being negatively affected and the situation was no longer sustainable.

Therefore, in the light of this evidence, most of which are the admissions in writing of Ms Justice, the Tribunal concludes that her position in the company had become untenable.

## **Decision**

Having examined and evaluated the statements of case, testimonies, documents and submissions presented and made by both parties, and having made the aforementioned considerations, the Tribunal, taking all the aforementioned elements in their totality and complexity, deems the Defendant’s decision to dismiss the Plaintiff to have been done for a good and sufficient cause and therefore according to Chapter 452 of the Laws of Malta.

## **Legal fees**

In accordance with Legal Notice 48 of 1986 of the laws of Malta the representation fees for each party shall be € 93.17. Each party in the case shall pay the respective fees to their legal counsel.

Tribunal Decision deems this Case closed.

**(signed)**

Joseph Gerada  
Chairperson

**TRUE COPY**

Graziella Spiteri  
F/A Secretary