



Complaint – DW Shop – India

Status: Closed

FWF is responsible for setting up a complaints procedure in production countries where FWF is active. The complaints procedure allows third parties to make complaints about the working conditions or the way the Code of Labour Practices is implemented in factories which supply FWF members.

The responsibility of FWF includes investigating the complaint, verifying whether the agreed corrective action plan is implemented and public reporting. This complaint report gives an overview of a complaint filed to FWF, the investigation and agreed corrective action plan as well as how the outcome is verified. For more information on the complaints procedure see the FWF website. FWF also publishes an overview of complaints received in its annual reports.

1. Affiliate involved

DW-Shop GmbH (hereafter: DW-Shop), Germany

2. Accused party

A factory located in India supplying DW-Shop.

3. Date of receiving complaint

The complaint was received by FWF through its local complaints handler in India on 8th and 13th May 2015.

4. Filing party

Two former employees of the factory, details of the identity are known to FWF and kept confidential. The identity was disclosed to the factory on their own wishes to solve the complaint.

5. The complaint

The first plaintiff claims that he was terminated by the factory after refusing excessive overtime. He was with the factory from 11th until 27th April 2015. According to him he worked overtime hours every day, including work on Sunday, amounting to a total of 50 hours overtime.

After the termination, the factory paid him Rs 3,325. This payment is based on a monthly salary on RS 6,000, it does not include overtime hours or the one month notice period



applicable per Indian law. Furthermore, the factory management claims that he was absent for five to six days, which was deducted from the payment. The legal minimum wage is set at Rs. 6,735, which was promised to the worker upon joining. He was not provided with an appointment letter at the time of joining the factory.

The wife of the first plaintiff also joined on 11th April and terminated her employment on 9th May as her payment was also less than verbally promised upon joining. She also claims to have done 50 hours of overtime in this period, including work on Sunday. According to her, she was first promised Rs 5,2000 monthly wages, than Rs. 6,000. Both sums are lower than the legal minimum wage. Upon termination she received Rs. 3,700 and had to sign the receipt on a loose paper. The management acknowledged only 35 hours overtime and stated that she was also absent for six days.

Both plaintiffs claim that they, along with the other workers, were promised higher wages and other benefits, if they would tell FWF auditors during an audit on 28th and 29th May that they receive the minimum wage of Rs. 6,700.

According to them, the factory runs seven days and almost all Sundays are worked. There is daily overtime of about three to 12 hours. Overtime rate, including Sundays, is only paid at single wage rate (according to Indian law, overtime must be paid at a premium rate of double wages). In peak season, the factory runs seven hours night overtime. In low season, three hours of overtime are still common.

6. Admissibility

FWF decided that the case is admissible on 14th May 2015.

The factory is an active supplier of DW-Shop, an affiliate of FWF.

The case is relevant to the following labour standards of FWF's Code of Labour Practices:

- Reasonable working hours
- Payment of a living wage
- Legally binding employment relations

7. Investigation

A FWF audit on 28th and 29th April showed, that several documents were falsified and forged (for instance, different signatures were used for the same worker). Most importantly, production records were not shown to the team, and management stated that they were destroyed.

Furthermore, workers appeared to be heavily coached on the days of the audit. Complete contradictions were observed from the interviews gathered during offsite and the ones received during onsite visit regarding issues like excessive overtime hours and lack of system for grievance handling.

Therefore, it was not possible for the audit team to draw sufficient conclusions during the audit.



FWF also received another complaint regarding similar topics, but the worker terminated the call before the FWF complaint handler was able to clarify all issues. The worker was not reachable after this call.

FWF sent the audit report and the complaints report to DW-Shop and asked them to get feedback from factory management regarding the claims.

Factory management claimed, that the workers resigned on their own wishes, that they were paid legal minimum wages and they did not work overtime. Factory management denied that excessive overtime happened at the factory. They stated that the plaintiffs received an appointment letter upon joining and a settlement payment of Rs. 3.485 (husband) and Rs. 1.498 (wife). Copies of the appointment letter, resignation letter and settlement payment were sent to DW Shop and FWF.

8. Findings and conclusions

FWF's local complaint handler received the document sent by factory management. She found that none of these documents were shown during the days of the audit. Therefore, FWF cannot authenticate these documents unless they are corroborated with other documents or worker interviews.

During the audit end of April 2014, FWF found that many relevant records and documents (among them appointment letters of workers as well as production records) were not available or forged. Factory management denies this finding.

An off-site visit by the FWF audit team confirmed that there was Sunday work at the factory. During on-site interviews, workers appeared to be coached.

Considering this as well as statements from workers during off-site interviews indicating overtime and payment below minimum wage as well as another similar complaint received via the FWF helpline, FWF concludes that the complaint is likely factual.

9. Remediation

While FWF concludes that the worker's claim is probably more valid than the factory's claim, relevant documents to verify this are not available.

FWF therefore calculated the settlement payment based on legal minimum wage using the working time claimed by the worker as well as working time claimed by factory management. It was suggested that factory management pays the workers an amount ranging between those two calculations.

When FWF called the plaintiffs to confirm whether they would be willing to accept such a solution, they were informed that factory management had meanwhile paid them additional settlement. The workers did not want to disclose the amount and asked FWF to close the complaint.

The claims of those two workers regarding their settlement will therefore not be pursued.

However, FWF asks DW Shop to remediate the following points together with factory management:

- All workers must be paid at least legal minimum wage of 6.735 Rs.



- All documents must be kept according to legal standards. This includes personal documents of workers such as appointment letters, resignation letters and settlement payments as well as production records and overtime registers.
- Factory management must set up a termination and leave policy compliant with national law and communicate this to workers.
- Overtime must be within legal limits and paid correctly (overtime premium of 200% according to national law).

Since factory management denies that their records were non-compliant, FWF suggested to DW Shop that local DW Shop staff together with a FWF document inspector visit the supplier in order to agree on a remediation plan.

10. Verification

FWF will conduct a follow-up document check or audit to verify remediation at the beginning of 2016.

11. Evaluation by the complainant

The plaintiffs thanked FWF for their efforts.