



## **Complaint – Blackout AG, Continental Clothing Company Ltd, Hess Natur-Textilien GmbH and Nudie Jeans Co. – 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**

Blackout AG (hereafter Blackout), Continental Clothing Company Ltd (hereafter Continental), Hess Natur-Textilien GmbH (hereafter hessnatur) and Nudie Jeans Co. (hereafter Nudie Jeans); alphabetical order

### **2. Accused party**

A factory located in India supplying Blackout, Continental, hessnatur and Nudie Jeans.

### **3. Date of receiving complaint**

Initial call for information to FWFs local complaints handler in India: 24 January 2014  
Decision to file a complaint: 27 February 2014

### **4. Filing party**

Two workers who are currently employed by the factory, whose contact details are known to FWF but will be kept confidential.

## 5. The complaint

Both complainants claim getting incorrect treatment after an accident that happened at the factory on 11 August 2013 when both workers got injured.

Both workers complain about several issues:

- Medical expenses have been covered but factory management denies access to any documentation, receipt or medical report. Both workers believe they have not been provided sufficient medical treatment needed as both still suffer from the injury.
- While the workers have been hospitalized, they have been asked by the company to sign a blank paper.
- Both workers are employed by the factory but cannot work as full time employers due to their disabilities. Workers claim that their salary is too low since the accident to make a living.
- Both workers are not receiving social securities (PF/ESI) according to Indian law.
- Both workers are worried not getting the correct disability certificate which will determine their future salaries.
- During investigation of the complaint, the workers called again to complain that they were called to a meeting room where two outsiders questioned them about why they made the complaint.

## 6. Admissibility

In December 2013, FWF has conducted several audits at a vertically integrated factory in India. The complaints received come from production units which are not cut-make-trim, where FWF has its mandate. Since the audit at this spinning mill has been conducted in agreement with the brands sourcing at the production unit, FWF decided that the case is admissible on 27 February 2014.

The factory is an active supplier of Blackout, Continental, hessnatur and Nudie Jeans, all affiliated to FWF.

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

- Legally binding employment relationship
- Safe and healthy working conditions
- Payment of a living wage

## 7. Investigation

FWF informs Blackout, Continental, hessnatur and Nudie Jeans about the case. Nudie Jeans agreed to take the lead and to coordinate approaching the factory management. The other brands were asked to support Nudie Jeans and to ensure help solving the complaint.

Both Nudie Jeans and Continental have visited the factory following up the complaint and discussing the issue with the factory management.

A local Indian partner of FWF accompanies the plaintiffs during the medical check-ups to ensure they get the medical treatment needed and the applicable disability certificate.

## 8. Findings and conclusions

After Nudie Jeans has addressed the complaint with the factory, immediate response was given.

a) Treatment: Treatment has been given in the best hospital in Coimbatore and the documents said that they have been immediately admitted on the day of accident and no false reason is given and it is admitted that they have fallen from 20 feet high.

b) Compensation: As per Section 4(d) and sub-section (2) of The Workmen Compensation Act, 1923, the factory has paid both the workers 25% of the monthly salary for 16 days or 50% in one month. The amount spent by the employer towards the medical treatment of the workers, is over and above the compensation paid to them under the Act. If they are eligible for more compensation under the Act, it could be determined once the "Disability Certificate" is issued by the competent authority.

The management has shown the letter to FWF which requests the doctor to issue the same and the doctor replying that it could be given at the end of the treatment. A local partner of FWF is verifying the process at the moment.

c) Bonus: Bonus is paid as required by law to both the workers. One of the plaintiffs is not eligible for bonus for the year 2012-13 as the date of joining was mid-2013 only. However, the factory has paid minimum bonus of Rs.100/- for the year, as per Section 10 of the Act.

d) Provident Fund (PF): The Fair Wear Foundation Audit Report of December 2013 indicates that not all workers are covered by social securities. As required by Section 40 of The Employees' Provident Fund Scheme, 1952, Contribution card for each eligible employee is maintained by the factory, for every currency period. An upload of PF contributions of both employee & employer on PF website: Employees' Provident Fund Website (<http://www.epfindia.com>) was missing initially.

The later handed in documents were not written properly and showed inconsistencies. At the end, both workers received PF according to law.



e) Disability Certificate: Disablement means the loss of capacity to work or to move. Disablement of a workman may result in loss or reduction of his earning capacity. Disablement may be 1] partial or 2] total. Further it may be i] permanent or ii] temporary.

The complaints handler has visited the medical institutions with the plaintiffs to ensure that they get their disability certificate accordingly. Both plaintiffs had to undergo several operations during 2014 which were all taken care and covered by the factory. The result of all operations and treatment is that both plaintiffs are back to normal by end of 2014 and that no partial or total disability certificate is required. The doctor's advice was to take it easy with regard to hard work to ensure that all fractures have time to fully heal.

## **9. Remediation**

Nudie Jeans took the lead in investigating this complaint has discussed the matter actively with the factory management.

The affiliates were requested to continue their efforts ensuring transparency of factory management towards its workers.

Further the affiliates were requested to continue their efforts ensuring a wage with which the workers can make a living.

## **10. Verification**

The complaints handler and plaintiffs confirm that all medical expenses have been covered. During investigation the factory has been transparent showing all medical records. Evidence was shown that all social securities and bonus were paid correctly and according to Indian law. The complaints handler met with the plaintiffs and the medical staff at hospital and confirmed that both plaintiffs are fully back to speed and no partial or full disability certificate is required.

## **11. Evaluation by the complainant**

The plaintiffs thanked FWF for their help to fully recover.