

## Complaint – Scorett Footwear AB – 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

Scorett Footwear AB, Sweden (hereafter Scorett)

### 2. Accused party

The complaint was filed against a factory located in India supplying Scorett.

### 3. Date of receiving complaint

The complaint was received by FWF through its local complaints handler in India on 13 May 2014.

### 4. Filing party

A worker that is currently employed by the factory, details of the identity are known to FWF.

### 5. The complaint

The complainant claimed that after returning from 3 days sick leave, the factory management dismissed the plaintiff. The plaintiff has been working at the factory since 5 years.

The plaintiff has not informed the factory about his absence. The plaintiff does not have a leave certificate from a doctor. The factory management has asked the plaintiff to sign several documents which the plaintiff has not been able to read (as the plaintiff is illiterate).



The plaintiff wants to reinstate his job as his family depends on him.

## 6. Admissibility

FWF decided that the case is admissible on 13 May 2014.

The factory is an active supplier of Scorett, an affiliate of FWF.

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

- Legally binding employment relationship

## 7. Investigation

FWF informed Scorett about the case. Scorett got immediate feedback from the factory.

Factory management claims that the plaintiff was absent since December 2013 several times with/without prior notice and that the management needed to take action as otherwise other workers could also take off more frequently.

The dates which the factory management claimed the plaintiff having been absent have been cross-checked by the complaints handler with the plaintiff. The plaintiff does not confirm having been absent on the days the factory management claimed the worker was absent. The plaintiff indicated receipt of the same salary for all months since December 2013 (which has been INR 7400) which indicates that the worker has been working. However as the salary was received cash on a monthly basis this is not evidence.

FWF conducted a verification audit at the factory on 5-7 May 2014. One of the findings was that the workers are not aware of factory policies, which includes the procedure of taking leaves. Further, the factory management did not post the legal requirements at the factory floor according to law.

According to Indian law (Industrial Employment Standing Orders Act, 1946), one can terminate someone on two issues - gross misconduct (like harassment, violence, criminal behaviour) or absence from work. In any case, to lawfully terminate the employment of permanent monthly-paid workers, employers are required to give in writing one month's notice (and a copy must be maintained with the HR).

## 8. Findings and conclusions

FWF does not have sufficient evidence/arguments to know when the plaintiff has been absent and whether it is the factory management or the worker stating the right situation about having been absent or at work.

However, from the FWF verification audit conducted shortly before the complaint has been received, FWF knows that workers at this factory are not aware of the procedure of taking leaves.

Since the worker has been dismissed in the morning after returning from being absent for 3 days without receipt of such a letter/mail one month prior termination of employment, termination of employment of the plaintiff is not according to Indian law.

FWF hence finds this complaint grounded.

## 9. Remediation

FWF expects from Scorett and the factory the following:

- The factory management is expected to set up policies on leave procedures according to the Indian law and to follow their rules. Factory policies should be posted at the factory visible for all workers and in the applicable languages of the workers. It needs to be ensured that the workers are trained and hence aware of the procedure of taking leaves. Remediation should be within the coming three months. FWF Workplace Education Programme could be of use to ensure management and workers understand labour rights and grievance mechanisms. FWF can be of help if requested.
- Since the dismissal was not according to Indian law (termination without one month's prior notice in written), the factory management is expected to re-hire the plaintiff under the same conditions as before termination of employment immediately. FWF expects the brand and the factory to ensure that the worker receives the full salary for the time (s)he was absent due to the investigation process.
- Scorett will draft a statement to the factory with an official summary of the case and the company's future position with the supplier.

Scorett updated FWF in March 2015, stating that the worker was not re-hired, but received full and final payment according to Indian law. Furthermore, Scorett advised factory management to establish and communicate policies regarding leave procedures.

## 10. Verification

FWF contacted the plaintiff. (S)he confirmed, that (s)he received full and final payment, but was not reinstated at the factory. According to the plaintiff, factory management did not want to employ him/her further since (s)he contacted FWF.

The plaintiff also stated that there had been a recent strike at the supplier after which many contracts were terminated.

As Scorett is no longer a member of FWF, FWF cannot verify those claims. FWF advises Scorett to follow-up on the complaint to verify, whether there has been a strike and possible illegal dismissals. Also, Scorett should verify whether the supplier has established and communicated policies for leave procedures.

## 11. Evaluation by the complainant

The worker has not been and also will not be re-employed by the factory. The plaintiff thanked FWF for the help in receiving the correct final payment. (S)he was unable due to lack of financial resources to involve the labour court.