



Complaint - SALEWA & DYNAFIT - Myanmar

Status: Resolved

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. Member company involved

SALEWA & DYNAFIT

2. Accused party

A supplier located in Myanmar supplying Salewa & Dynafit.

3. Date of receiving complaint

11 July 2017

4. Filing party

The union leader from the factory

5. The complaint

The complainant claimed that the factory recruited a worker on 22 May 2017, and then fired her improperly on 06 July based on the following reasons;

1. She used the fake ID in her first employment
2. She came back to the factory knowing that the factory has a policy of not rehiring the former employees.

The worker is a former employee who was made redundant around Sept 2015

together with other 203 workers. The worker reapplied for a job at the factory in 2017 with her real ID. However, the HR manager found out that she was a former employee.

The union leader stated that the HR manager threatened the worker to accept the termination by saying that her mother, who is currently also working at the factory, might get fired as well if she refused to accept her termination.

During the termination process, the union representatives were present. However, they could not persuade her not to leave as the worker felt intimidated and was afraid of any negative impact on her mother also working at the factory. The factory gave her a notice-compensation plus the wages for the number of working days she worked for July.

The union leader reported the case to FWF during the audit, and FWF immediately discussed about it with the factory management. The factory management denied the existence of a policy of not re-hiring former employees. The HR manager also denied threatening the worker. The factory management suggested FWF calling the HR manager to clarify what had happened by listening to both sides.

6. Admissibility

FWF decided that the case is admissible on 11 July 2017.

The factory is an active supplier of SALEWA & DYNAFIT, member of FWF.

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

- Legally binding employment relation

7. Investigation

On 12 July 2017, FWF consulted the HR manager. FWF also talked to the worker, and her mother.

8. Findings and conclusions

The HR manager indicated that she was told verbally by the management not to hire former employees. When she was appointed as a HR manager at the factory, and following the introduction of the new legal minimum wage, a large group of workers was made redundant in 2015. This was 3 months after her initial appointment. The girl was included in this redundancy dismissal. But the HR manager did not remember the girl. And then the girl joined again on 22 May 2017 and was terminated on 06 July 2017. She said that the reason for the

dismissal was that the girl used a fake ID during her first recruitment in 2015, and could not figure out if she used her real ID in the second time. She denied that she threatened the girl or her mother. She noted that she told the mother that “both you and your daughter lied to me”. And she said that the mother responded, “yes, I told you that we lied.” Factory management later indicated that the fact that she lied was the main reason for her dismissal.

FWF also talked to the worker and her mother, and received the following responses.

1. She joined the factory with fake ID during the first employment in 2015. The reason is that she only had a 10-years old ID card at that time, and the former HR manager found out that she was under 18 years old during the recruitment process and suggested that she borrowed an ID from someone older because former HR manager was concerned about the possible negative effect on the worker’s mother who has been already working at the factory.
2. She was recruited with an ID card borrowed from her neighbor.
3. She was made redundant in 2015 following the introduction of the new legal minimum wage.
4. She applied for an operator position again with her real ID as she turned 18 and got the ‘18-years old’ ID card. She admitted that she lied to the new HR manager during the recruitment process that she had never worked for the factory before and only her elder sister used to work at the factory, as she was concerned that she might not get the job. She did not know that the factory has a rule “not to rehire the former employees”.
5. When she started the work, some of the operators who knew her from before told her that she might be in trouble coming back, which is when she understood that a rule may exist that the factory does not rehire former employees.
6. Around 30 June, she was called into the office and HR manager asked if she had worked at the factory before. She denied it.
7. The HR manager told her before July payday that she did not need to come to work at the end of the month, and her salary would be paid via her mother. She cried and refused to do it because she needed the job. She was told that both her mother and herself could be fired. But, she continued coming to the factory until 05 July. Then, on 06 July, she was again called in the office in the presence of members of the Workers Coordination Committee from employers’ and workers’ sides. She was then told to sign the termination letter and asked to leave with one month notice compensation. The HR manager said that both her mother and she lied to them and thus both of

them could be fired. Her mother was worried of being fired and said, “yes, I lied”. As the girl was afraid that her mother would be fired, she agreed to sign the termination letter. The worker confirmed FWF that the second time ID is the real one, and she wants to be reinstated.

FWF checked with the worker if she could submit the real ID and she said that she has it. FWF conveyed the findings to both the brand, and the factory. Since there is no written policy of not rehiring the former employees at the factory, and the worker is able to submit her real ID, FWF concluded that the reasons for terminating the worker no longer relevant, and the worker should be reinstated.

8. Remediation

On 19 September 2017, FWF received the reply from the factory management confirming that the worker would be reinstated based on the following agreement;

1. Compensation - She would return the one month of payment in lieu of notice given to her.
2. Seniority – the worker will retain the original employment date which is 22/May/2017.
3. Job Assignment – The said employee will retain also her current position and pay.
4. The date of her return is on 22 September 2017.
5. The salary for the missed days of work will be compensated minus the previously paid severance pay. It is included all salary and bonuses and awards as salary except for overtime.
 - a. July Salary – Her last salary was calculated up until the 6th July. The factory will include the rest of the salary from 7th of July onwards to include the rest of July.
 - b. August Salary – Since the factory has paid her one month salary as Payment in lieu of notice, that will count as her august salary.
 - c. September Salary – since she is returning to work, the factory will pay the September salary according to regular payment schedule on October 5th. The days she did not work will not include OT pay.

9. Verification

FWF confirmed that the worker joined the factory on 22 September 2017, and the worker called FWF on 25 September 2017 and said that her terms and conditions of reinstatement were fulfilled.



9. Evaluation by the complainant

The union leaders are happy for the terms and conditions of her reinstatement.