

Legal issue related to Emotional Distress

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Introduction

Employment law can be understood as a framework, which regulates the relationship between employers and employees. Employment law is a broad term that covers a number of different issues and problems related to a job and other related aspects, which are aimed to create a negative working environment in different organizations. Employment laws are also aimed to provide a number of benefits to employees¹. In this relation, the presented case is aimed to provide a brief overview of different considerations and recommendations of the law in a specific situation described in the case. The analysis of the situation described in the case is aimed to enhance the knowledge of the readers about the contemporary employment law.

Description of the case:

The case is all about a problem faced by Alan, who was responsible for an accident at the workplace. After the accident, Alan was not able to work on the floor of the shop. Hence, he was offered with a temporary office job. However, the life of Alan at the shop was not easy after the incident. The behaviour of his colleagues was not suitable for him. He was the centre of their teasing at the workplace. He tried to report his problem to his manager, but he did not get a satisfactory response from his boss. This situation led to the decreased efficiency and attention at the workplace. Because of this reason, his manager scolded and fired him from his job. In this way, the case is aimed raise an important legal issue related to employee motivation and performance of the employee. Furthermore, the case is also aimed to check the legal viability of the decision of management related to the termination of Alan.

Identification of the legal employment issue in the case:

The case suggests that Alan was fired because of the lack of attention and his pathetic

1 Benjamin W. Wolkinson and Block, Richard N., Employment law: the workplace rights of employees and employers. (Germany: Wiley-Blackwell, 1996)

whimpering. But the question arises that was Alan the only one responsible for such a kind of behaviour of him? Certain employment legal issue was also associated with the situations related with the case. The issue was related to the emotional distress faced by Alan. According to the case, Alan was subjected to face an unkind behaviour from his co-workers and manager because of which, he had to face a sort of mental anguish and suffering. Such actions of co-workers and managers of Alan were intentional and directed to harm the dignity and mental peace of Alan. Because of this reason, such kind of conduct of co-workers and manager comes under the scope of employee's emotional distress act defined by Tort law. According to the act, any action inflicted by an individual which leads to mental or emotional distress to another individual comes under the category of prohibited action, and if there are any physical and mental problems due to such type of behaviour of the person, they should be recovered as soon as possible.².

Issues related to emotional distress have certain limitation. The first and foremost limitation related with these issues is that each instance of disruption of the peace of mind can not be regarded as the case of emotional distress. There must be some solid grounds for presenting a viable claim for remedies in case of mental distress. For this purpose, a specific criterion has been set by the Case Law, which decides what degree of mental anguish should be considered as the emotional distress and what kind of acts will be counted as a normal interaction between two individuals. The outcomes of emotional distress can be judged by two types of injuries to the victim. These injuries are physical injury and mental and emotional injury. The intensity of such injuries depends upon the level of emotional distress faced by the victim. In the case, Alan had to face both types of injuries, due to the behaviour of his colleagues and manager. For instance, Alan had to face some health related issues, such

2 Karen E. Ford, Notestine, Kerry E. and Hill, Richard N., Fundamentals of employment law. (U.S.A.: American Bar Association, 2000), 248-250.

as headache, weight loose and other problems. Furthermore, because of the distress, Alan faced a sort of depression with the environment of his work place. Because of this depression, the mental peace of Alan decreased, which was resulted into a decreased attention and efficiency of him with his job.

Legal consideration involve in the case:

There are several legal constrains associated with issues related to emotional distress identified in the case. The emotional distress is dealt by a separate branch of employment law, which is known as Tort law. According to the different provisions provided by the Tort law, the victim of emotional distress is entailed to register a suit in regional, state, and national civil court against the person who is responsible for the distress. The law also prevents any kind of physical, legal, emotional and economic harm of an employee due to wrong actions and behaviour of his colleagues and his manager at the work place. In the case also, Alan's physical, mental and emotional well being was hampered because of the behaviour of his colleagues and response of his manager on his complaint. Furthermore, the manager fired him without having any solid reason. Such act of managers and co-worker comes under the span of tort law for emotional distress. Alan can sue his manager in court against his unethical firing³. The law provides several rules and regulations related to the firing of an employee, which must be considered by an employer before firing his employee. Such recommendations of the law are being listed as below:

The management must check whether the reasons of firing are aligned with the written policies of the company.

3 (Robert J. Walter and Sleeper, Bradley J. Emotional liability for employee emotional distress claims, 1997) <http://findarticles.com/p/articles/mi_hb6451/is_n2_v18/ai_n28695470/?tag=content:coll> Accessed on 19 March 2011.

- Before firing any employee, the organization must collect proper and adequate proofs whether the conduct of the employee is severe and against the company policies and norms.
- The organization must need to provide a written notice to the employee before firing him. Such notice should be a legal document. The document must contain a proper and concise explanation regarding the reasons for the dismissal of the employee.
- In case of a sudden termination, the organization, must review its decision on the basis of different facts and evidence.
- Employee termination on the basis of any personal grudges between employer and employee without having a solid basis is prohibited by the employment law.

The organization must plan an interview with the help of which the management can anticipate the responses and reactions of the employees regarding the termination. Such interviews will also be aimed to provide a solid platform to the terminated employee to put his perspective in front of the management.

However, the organization did not follow any of such recommendation of the employment law. Such scenario implies that the termination of Alan in the case cannot be considered viable on ethical or legal grounds⁴.

It is stated earlier that before filing any suite against employers or co-workers regarding the emotional or mental distress, the employee must consider several requirements, which are taken into account by most of the courts around the world. Such requirements are listed as below:

- (1) The misbehaviour of employer and co-workers with the employee is intentional and reckless.

4 (Emotional Distress Lawyers, 2011). <<http://www.legalmatch.com/law-library/article/emotional-distress.html>> Accessed on 19 March 2011.

- (2) The conduct of employer and co-workers is aimed to give any kind of physical and mental injury.
- (3) The conduct of employer and co-workers causes for the mental depression of the employee because of which his efficiency and productivity decreases.
- (4) The actions of employer and colleagues are aimed to harm the mental peace and dignity of the employee.
- (5) The level of emotional distress must come under the category of severe distress defined by the employment law.
- (6) The conduct of the employer must be extreme and offensive⁵.

The case suggests that Alan faced the conditions at his work place, which are aligned with such requirements. For instance, Alan was targeted by his colleagues, intentionally and recklessly. Their behaviour with Alan was very unkind. Furthermore, even after making complaints against such behaviour of colleagues to the upper-level management, Alan was not able to find a satisfactory solution to the problem. Because of which, the level of depression and stress in Alan was increased. Such depression caused for his decreased performance at his work place. The situation became worse when in spite of listening to the problems of Alan, the management decided to fire him on the grounds of his behaviour and performance at workplace. This was the extreme action taken by the management against him⁶.

Such scenario implies that the termination of Alan was ethically and legally wrong. Alan has a strong base, on the basis of which he can challenge the decision of management regarding his termination in the court.

Law related to compensation of loss of employee in the case of Emotional distress:

5 (Robert R. Snashall. Work-Related Mental Stress Injuries in the NYS Workers' Compensation System, 1997) <<http://www.wcb.state.ny.us/content/main/TheBoard/stress.pdf>> Accessed on 19 March 2011

6 William H. Putman, Legal Research, Analysis and Writing (U.S.A.: Cengage Learning, 2009), 48-52.

There are various laws and legislations, which are aimed to provide adequate and reasonable compensation to the victim. In this concern, the revised Statutes of Arizona are vital to be considered. The law came in to the existence in the year 1980 for protecting employees from the loss arises due to unintentional or intentional misbehaviour of employers and employees. The section 23-1043.1 of Arizona Revised statutes contains two different subsections namely subsection (B) and subsection (C). The provisions of such subsections are aimed to regulate or govern the factors for deciding the level of compensation of injuries due to work related stress. Especially subsection (B) of the law deals with the personal injuries, which arises due to the negligence of the management. In addition to this, the subsection also provides some important provisions related to some unexpected, unusual or extraordinary stress, which is directed to decrease the motivational level of an employee and consequently, the performance of the employee at his work place. Section 5.4.2 of Arizona Workers' Compensation Act is aimed to provide the definition of mental and emotional injuries arises due to emotional distress. According to the section, any kind of mental disorder, such as depression caused due to the working environment comes under the category of mental injury from emotional distress.⁷.

For clarifying the actions of an employer in conditions, where the working conditions of the organization leads to mental distress of an employee, The Supreme court of California has recommended that if an employer misbehave with the employee in the normal part of employment including promotions, demotions, salary negotiations, incentives, fringe benefits, criticism of working practice of the employee, etc., the act of the employer will be counted as the act contributing in level of emotional distress of the employee. The court provided a provision of remedy for the problems arises due to this type of distress.

7 (Robert R. Snashall. Work-Related Mental Stress Injuries in the NYS Workers' Compensation System, 1997) <<http://www.wcb.state.ny.us/content/main/TheBoard/stress.pdf>> Accessed on 19 March 2011

Conclusion and recommendation:

As per the findings of the paper, it can be concluded that the behaviour of colleagues and manager of Alan was not good for him. They always try to decrease the moral of Alan by their unkind behaviour. Such type of behaviour of colleagues and management demotivated Alan. Because of this reason, his approach hampered significantly. This scenario provides an excuse to the management to fire Alan. The findings of the paper demonstrate the firing of Alan on such basis can not be considered viable ethically or legally. Furthermore, the paper has also raised an important issue related to the performance and efficiency of an employee at the work place. The issue is related with the emotional distress, which arises due to the behaviour of colleagues and management. The paper has also presented some legal provisions related to the issue.

On the basis of findings of the paper, Alan is recommended to take some legal actions against his employer. There are a number of provisions, which are aimed to justify the position of Alan in the law suit. Alan should file a case against his employer for his illegal termination. There are several regulations imposed by different acts under the employment which are aimed at provide guidelines related to termination of an employee. If the employer omitted all such regulations requirements of the law, it can be said that Alan will possess a stronger position in the case.

References

- Benjamin W. Wolkinson and Block, Richard N., Employment law: the workplace rights of employees and employers. (Germany: Wiley-Blackwell, 1996)
- Emotional Distress Lawyers, 2011. <<http://www.legalmatch.com/law-library/article/emotional-distress.html>> Accessed on 19 March 2011.
- Karen E. Ford, Notestine, Kerry E. and Hill, Richard N., Fundamentals of employment law. (U.S.A.: American Bar Association, 2000), 248-250.
- Robert J. Walter and Sleeper, Bradley J. (Emotional liability for employee emotional distress claims, 1997)
- <http://findarticles.com/p/articles/mi_hb6451/is_n2_v18/ai_n28695470/?tag=content:coll> Accessed on 19 March 2011.
- Robert R. Snashall. (Work-Related Mental Stress Injuries in the NYS Workers' Compensation System, 1997)
- <<http://www.wcb.state.ny.us/content/main/TheBoard/stress.pdf>> Accessed on 19 March 2011.
- William H. Putman, Legal Research, Analysis and Writing (U.S.A.: Cengage Learning, 2009), 48-52.