



საქართველოს ახალგაზრდა იურისტთა ასოციაცია

რეორგანიზაციის საფუძვლით
გათავისუფლებულმა პირმა სასამართლო დავა
მოიგო

An employee fired due to reorganization wins a lawsuit

An employee who was fired due to the reduction in staff as per the reorganization plan has won a dispute with the Telavi Municipality. GYLA was representing the interests of the applicant. The court of all three instances found that the dismissal did not meet the requirements of the law, so Telavi Municipality was instructed to reinstate the dismissed employee and compensate for the forcibly lost salary from January 30, 2018, until the day she was reinstated at work.

The dismissed employee challenged a decision according to which she was inserted on the list of reserve employees (a de-facto termination of employment). The applicant argued that her dismissal was unlawful since the position she had held in the administrative body was not canceled, the same official function was retained and a new competition was announced for the position.

The court upheld the applicant's arguments clarifying that she was not a civil servant subject to mobility, and deemed the dismissal unlawful. According to the court decision, an employee can be transferred as per the mobility rule if the following conditions occur cumulatively: 1. an institution is reorganized, liquidated and/or

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merged with another institution; 2. reorganization, liquidation and/or merger is accompanied by reduction and/or abolition of staff; 3. there is the consent of an officer concerned.

The Court ruled that although the merger of the Telavi Municipality and the self-governing city of Telavi Union created the Telavi Municipality, leading to the staff reduction, it is noteworthy that the position held by the applicant was neither abolished/reduced nor the purpose of the position changed. The Court considered it important that "there were no grounds for the inclusion of the applicant in the reserve list due to the impossibility of mobility since the established circumstance into the case proved that a competition was announced for the disputed position." The Court also stressed the importance of proper implementation of the mobility rule and all related procedures in the civil service in order to strengthen the stability of the civil service and improve the legal status of public officials.