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Court of Cassation
Social Chamber
Public hearing of Wednesday 9 July 2008
Appeal n°07-41845
Published in the Bulletin

Rejection

Mr Trédez (most senior advisor acting as President), President
Mr Chollet, legal advisor
Mr Lalande, advocate general
SCP [Civil Law Partnership] Bouzidi and Bouhanna, SCP [Civil Law Partnership] Masse-Dessen and Thouvenin, SCP [Civil Law Partnership] Richard, attorney(s)

FRENCH REPUBLIC

IN THE NAME OF THE FRENCH PEOPLE

THE COURT OF CASSATION, SOCIAL CHAMBER, rendered the following judgment:

On the first mean:

Considering, according to the appealed judgment (Versailles, 25 January 2007), that Mrs X…, hired in 1982 by the Sochata Snecma company, which assumes the rights of the Snecma services company, has carried out her management duties on the site of Saint-Quentin-en-Yvelines; that the employee was, on 16 November 2004, laid off for the motive of, namely, a disruption of the service following numerous work stoppages; that by an interim order of 17 December 2004, the employee claims court of Rambouillet reversed the dismissal and ordered the reinstatement of the employee within the Snecma services society or the Snecma group in a establishment close to her home in order to take into account her health status; that by a judgment of 20 September 2005, ruling on appeal of a new order that says that there need not be referral of the demand interpretation of 17 December 2004, the Versailles Court of Appeal stated that the closest site most compatible with the health status of the employee was that of Corbeil (Snecma group motors); that the employee sought an application before the trial judge tending notably to her reinstatement in the group's establishment the closest to her home and to the payment of damages against both the Snecma services society and the Snecma society;

Considering that it is complained that a judgment has been ordered, by the 17 December 2004 order's notification, regarding her reinstatement to the Saint-Quentin-en-Yvelines site of the job previously held, and, otherwise, to an equivalent job and dismissing her request for a reinstatement within the Snecma company group, thus, depending on the plea, that in the case of a layoff being declared void due to a violation of the fundamental right to health, the employee must be reinstated into his position or an equivalent position within the company which employs him or, if health reasons justify it, into all the group's companies to which the employer belongs

for which the activities, the organisation and the exploitation site allow for the transfer of all or part of the employees; that in ruling that the reinstatement following the cancellation of a layoff issued against an employee because of his health status is a measure which has the effect of sanctioning a company which has committed an illegal act, and that this obligation of the guilty company is distinct from the reinstatement obligation and limited to the company within which the employee was working and thus does not extend to the group to which the company belongs, the Court of Appeal violated articles L. 122-45 and L. 230-2 of the Labour Code;

But given that after declaring a layoff void due to a violation under the provisions of paragraphs 1 and 5 of article L. 122-45, which became articles L.1132-1 and L. 1132-4 of the Labour Code, the obligation to reinstate resulting from the ordered continuance of the work contract does not extend to the group which the employer belongs to; that the plea is not well-founded;

ON THESE GROUNDS, and without there having the need to rule on the other means that wouldn't be of a nature to allow for the admission of the appeal;

REJECTS the appeal;

Condemns Mrs. X… and the CGT Snecma services Saint-Quentin trade union to the legal costs;
Considering article 700 of the Civil Procedure Code, rejects the requests;

Hereby completed and judged by the Court of Cassation, Social Chamber, and pronounced by the President during his public audience of the ninth of July two thousand eight.

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Appealed decision: Versailles Court of Appeals of 25 January 2007

Titrations and summaries: WORK CONTRACT, RUPTURE – Layoff – Nullity – Effect – Reinstatement – Employer's obligation – Scope

Following the cancellation of a layoff due to a violation of the provisions of paragraphs 1 and 5 of article L. 122-45 recodified under articles L. 1132-1 and L.1132-4 of the Labour Code, the reinstatement obligation resulting from the ordered pursuance of the work contract does not extend to the group to which belongs the employer

WORK CONTRACT, RUPTURE – Layoff – Nullity – Case – Discrimination – Discrimination based on health status or handicap – Scope

Judicial precedents: On the scope of the reclassification obligation in cases of a layoff being declared void, to reconcile: Soc. 15 February 2006, n° 04-43.282 and 04-47.667, Bull. 2006, V, n° 69 (cassation)

Applied texts:

Article L. 122-45 of the Labour Code recodified under articles L. 1132-1 and L. 1132-4 of the new Labour Code