

MICHAEL SOMMER
PRESIDENT
PRÉSIDENT
PRÄSIDENT
PRESIDENTE

SHARAN BURROW
GENERAL SECRETARY
SECÉTAIRE GÉNÉRALE
GENERALSEKRETÄRIN
SECRETARIA GENERAL

Dr Mohammed Ali Al Ansari,
Under-Secretary for Labour Affairs
Ministry of Labour &
Chair, Tripartite Commission on
Reinstatement
Bahrain

Email: Mohammed.alansari@mol.gov.bh
Fax : 00973 17686999

HTUR/JSV/sdr

27 January 2012

Reinstatement Commission

Dear Sir,

In November 2011, the Governing Body of the International Labour Organization (ILO) considered and adopted the proposal put forward by the Government of Bahrain to establish a tripartite committee to review the issue of dismissals and reinstatements referred to in the Complaint Concerning the Non-Observance by Bahrain of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). The first report of the committee, which is to provide the status of each worker alleged to have been inappropriately dismissed during the relevant period, is due by the end of January. The International Trade Union Confederation (ITUC) looks forward to reviewing this report in order to assess what progress has been made in securing the reinstatement of nearly 3,000 wrongfully dismissed Bahraini workers.¹

We understand that there has been significant progress in securing the reinstatement of government workers, which is a welcome and positive step.

The reinstatement of workers in the private sector, and especially in state-owned enterprises held by Mumtalakat however, lags very far behind, with the great majority of workers still without work and without an income nearly a year later. Further, very few of the 55 dismissed trade union leaders - including the 6 national leaders - have been reinstated, despite the fact that other workers in the same enterprise have been reinstated.²

¹ On this point, we note the findings of the Bahrain Independent Commission of Inquiry (BICI), which confirmed that the firings of public and private sector workers were undertaken in retaliation for participation in demonstrations and legal strikes, that the government created an environment which encouraged the sackings and in some cases directly urged companies to do so, that the authorities “applied” the law in a discriminatory manner and that the vast majority of the firings were illegal under both domestic and international law.

² However, the few trade union leaders who were reinstated had to accept conditions that prohibit them, in whole or in part, from undertaking trade union activity. For example, trade union leaders in Trafco were reinstated, but only after signing a document stating that they will not engage in any union activity. In Gulf Air, two union leaders were reinstated only after signing a document that includes, among several other conditions, a requirement that they not engage in any future political activity.

We fear that this might reflect a deliberate effort by some in the government to undermine existing trade union organizations in the hope of frustrating the free exercise of trade union rights and promoting new leaders who are more amenable to the government and employers.

We urge the committee to redouble its efforts in order that it might secure the reinstatement of all illegally dismissed workers, including trade union leaders, by the March 2012 Governing Body meeting.

Our concerns are not limited, however, to the number of reinstatements but also to the terms. We are deeply troubled to learn that many of those workers who have been reinstated were brought back to inferior posts, have been forced to agree to unacceptable conditions and/or have not received back-pay and benefits retroactive to the date of the illegal dismissal.

In the public sector, for example, we have learned of serious problems with regard to the reinstatement of education professionals. This includes the senior staff of the Bahrain Training Institute, which remains without work since June 2011. The government now claims that the dismissals were for purely administrative reasons, not for protected trade union activity or political opinion. These workers were dismissed however without any investigation. On January 26, 2012, these same workers received notice to appear before a criminal court. Further, we have also learned that many senior teachers who have been reinstated have been returned to far inferior posts, at lower pay, and have been effectively marginalized within their schools. They are provided no desks, no resources and no work to do.

In the state-owned corporations, in the relatively few cases where reinstatements have occurred, they are conditional. For example, ALBA recently contacted the workers it dismissed and offered them reinstatement on the condition that they accept a final warning in their personnel file, drop all claims against the company for back pay and benefits and agree not to engage in any further political activity of any kind or risk immediate dismissal. Hundreds of workers refused these unacceptable, indeed illegal, conditions.

Banagas has offered reinstatement to the workers it dismissed if they accept a final warning in their personnel file, leaving them exposed to immediate re-dismissal. It also claims that it is not offering reinstatement because it acted illegally but rather out of humanitarian motives.

Arab Shipbuilding ASRY and APM Terminals at Khalifa Sea Port both offered to reinstate dismissed workers under new contracts as if they were new employees, thus losing all accrued seniority and benefits. BATELCO told dismissed contract employees to either return to work under a new 6-month contract or take a payment of 6-months wages and leave the company; no offer of reinstatement has been made to the permanent employees. Several other state-owned corporations, including Gulf Air and BAPCO, have offered reinstatement under similar, unacceptable conditions. Bahrain Airport Services BAS and Gulf Aluminium Mill Company have made no offer of reinstatement whatsoever.

These demotions and conditional reinstatements are not solutions, but rather serve only to create further problems. It is the international trade union movement's firm expectation that all workers be reinstated to their former positions (or equivalent if not otherwise possible), without condition whatsoever and with the payment of all wages and benefits to which they are entitled upon their reinstatement. We therefore strongly urge the commission not to consider any case as resolved if there is evidence of anything less than a full, unconditional reinstatement.

Finally, I would like to take this opportunity to remind the government that, in addition to dismissal, certain trade unionists also continue to face criminal prosecution for participating in strikes and demonstrations last year. We believe the charges against them to be without merit and once again urge their immediately release.

Again, we look forward to reviewing the report and will continue to monitor the situation closely.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'A. R.', written in a cursive style.

General Secretary