TRIBUNAL GHAL TALBIET
TAL-KONSUMATUR

CONSUMER CLAIMS
TRIBUNAL

MALTA

Fit-Tribunal tal-Konsumatur

Celaine Mizzi

vs

Future Focus Limited.

CCT 43/18/MS

06 ta' Marzu 2019

It-Tribunal

Ra l-avviz tar-rikorrenti prrezentat fl-14 ta' Marzu 2018 fejn talbet ir-rifuzjoni ta' erba mitt Euro, prezz ta' kors imhallas lis-socjeta' intimata, liema kors ma kienx rikonoxxut mid-Dipartiment tal-Edukazzjoni sabiex jikkwalifika ghall-impjeg ta' Kindergarten Assistant kif xtaqet ir-rikorrenti.

Ra r-risposta tas-socjeta' intimata prrezentata fl-10 ta' April 2018 fejn cahdet it-talba rikorrenti bhala infondata fil-fatt u fid-dritt u jekk kien hemm xi zball, dana sar min-naha tar-rikorrenti u s-socjeta' intimata mhijiex responsabili ghal dan li fi kwalunkwe kaz taw servizz professjonali mill-bidu sal-ahhar.

Ra l-atti u d-dokumenti kollha processwali.

Sema' x-xhieda bil-gurament.

Ikkunsidra.

Illi rrizulta mill-provi u mhux kontestat illi il-21 ta'Novembru 2016 ir-rikorrenti thajret biex tapplika ghal kors mas-socjeta' intimata ghal Kindergarten Assistant mal-gvern u talbet informazzjoni u assistenza minn certa Corinne Galea minn Future Focus Ltd. Gew ezibiti xi emails f'dan ir-rigward.

F'12.53pm Corinne Galea qalet hekk:

Trust this email finds you well. Can you please confirm the following so that I may be able to guide you accordingly?

Did you do the Cache level 4 course with us or the foundation course in childcare? If you did the Cache level 4 course did you opt for the LSA pathway? If so you will first need to do the early years pathway of the level 4 course followed by the top up course. Following successful completion of this course you will be eligible to apply for kindergarten assistant posts and not teaching posts. Should you wish to become a teacher you will need to do the PGCE course which is offered via distance learning.

Ir-rikorrenti wiegbet ghal dan l-email fis-13.50pm u qalet hekk

I've done the Intermediate Diploma Level 3 in Good Practice in Child Care and Education with Future Focus and also done the LSA Diploma facilitating in inclusive education with the University of Malta (LSA2).
Now I would like to continue studying to become a KGA with the government department.
Can you please guide me what course I need to take.

Ghal dan l-ahhar email, jidher illi r-rikorrenti hadet twegiba xi sitt sighat wara, fis-7.10pm minghand Rita Agius, pero' jidher ukoll ill Corinne Galea kienet 'copied' b'dan l-email. Dan l-email ighid hekk:

You can apply for the Top Up Course. The course is scheduled to start on Saturday 21 January and there is another one scheduled on Tuesday 4th April.
It is 23 weeks long once a week. Lectures 3 hours long from 9.00 hrs till 12.00 hrs.
Fee €400.00. You have assignments and a test at the end. No placement needed.
Attached please find the information about the course.

Ikkunsidra

Illi huwa evidenti illi l-intenzjoni tar-rikorrenti kienet illi, hekk kif tispicca l-kors tibda tahdem bhala Kindergarten Assistant mal-gvern. Ir-rikorrenti ghamlitha cara illi hi kellha Level 3 Diploma in Good Practice in Child Care u mhux il-Level 4 course illi kien gie mitlub fil-bidu nett minn Corinne Galea. Ghalhekk, ghalkemm it-Tribunal jaqbel illi Corinne Galea imxiet sew u li l-email taghha kien car u dettaljat, ghal xi raguni ma baqghetx ssegwi l-kaz wara r-risposta tar-rikorrenti. Fil-fatt, kienet Rita Agius - u mhux Corinne Galea - illi kompliet tipprocessa l-applikazzjoni u li wiegbet ir-rikorrenti fejn qaltilha kategorikament 'You can apply for the Top Up Course.'

Fuq dan il-parir ir-rikorrenti accettat li taghmel il-kors, hallset il-mizata mitluba u attendiet ghal dan il-kors.

Illi meta r-rikorrenti spiccat il-kors b'success u applikat ghal posizzjoni ta' KGA II mal-gvern, jidher illi l-kwalifi taghha u cjoe' Intermediate Diploma Level 3 in Good Practice in Child Care and Education u t-Top Up Course for Holders of The Diploma For Children And Young Persons Between 0 - 8 Years of Age Workforce (MQF -EQF Level 4) - ma kienux bizzejjed u l-applikazzjoni taghha giet rifjutata ghal dawn ir-ragunijiet:

The Commission confirmed your ineligibility for the following reasons:
The Qualifications that you presented were not sufficient because the Diploma in Good Practice in Child Care and Education was at Level 3.
Although you were in possession of the top up course, you did not have the Diploma for Children & Young persons. Additionally, the Diploma facilitating in Inclusive Education was not considered as a relevant qualification. Furthermore you were not in possession of the Diploma in Early Education and Care MQF level 4 and therefore you were deemed as ineligible.

Illi jidher illi l-problema principali kienet li l-livell tad-Diploma tar-rikorrenti f'Level 3 ma kienx sufficjenti peress illi kellu jkun Level 4. Dan, ir-rikorrenti, ghamlitu car mill-bidu nett kif jidher fit-talba taghha u r-risposta li tat ghat-twegiba tal-email ta' Corinne Grech .

It-Tribunal ghalhekk jidhirlu li jekk kien hemm xi tort jew malintiz, dan sar min-naha ta' Rita Agius illi minghajr ebda rizervi, kawtela jew domandi, qaltilha mal-ewwel 'You can apply for the Top Up Course'. Ghalhekk meta s-socjeta' intimata tghid illi l-izball sar minhabba li r-rikorrenti applikat ghal KGA Level II mentri l-kwalifiki taghha kienu biss ghal supply Kindergarten Assistant, dan bl-ebda mod ma gie ppruvat.

Illi ghalkemm kull min japplika ghal kors ghandu jkun responsabbli li jara l-affarijiet sew, huwa daqstant veru illi dak li jkun ghandu dritt jippretendi illi meta jitlob parir minn dawk li qed joffru servizz professjonali f'dan il-qasam, ghandu joqghod fuq dak il-parir minghajr ebda rizervi. Kull min jahdem fil-qasam tal-edukazzjoni bhas-socjeta' intimata ghandu jaghti informazzjoni cara, dettaljata u korretta dwar x'ikopri l-kors u ghalxiex jista' jintuza.

It-Tribunal jidhirlu illi ghalkemm dan sar min-naha ta' Corinne Galea, ghal xi raguni din ma baqghetx issegwi l-kaz u kienet Rita Agius illi bla tlaqliq ta' xejn issugeriet it-Top Up Course. Di piu' Corinne Galea kienet qed tigi mizmuma 'in the loop' u kwindi kienet fposizzjoni illi tikkoregi lil Rita Agius kieku dehrilha li l-parir taghha ma kienx minnu. Corinne Galea, pero, ma intervjenietx.

Ghaldaqstant, fic-cirkostanzi, it-Tribunal jaqta' u jiddeciedi illi jilqa' t-talba tar-rikorrenti u jordna lis-socjeta' intimata tirrifondilha s-somma ta' erba mitt Euro. Bl-ispejjes kontra s-socjeta' intimata.

Michela Spiteri LL.D
Arbirtru