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**TRINIDAD AND TOBAGO:  
SPECIAL TRIBUNAL NO. 8 OF 2005**

**IN THE INDUSTRIAL COURT**

**BETWEEN**

**ESTATE POLICE ASSOCIATION OF TRINIDAD  
AND TOBAGO - PARTY NO. 1**

**AND**

**CARIBBEAN UNION COLLEGE - PARTY NO. 2**

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**CORAM**

His Honour Mr. V. Ashby -Chairman  
Her Honour Mrs. J. Rajkumar-Gualbance -Member  
His Honour Mr. L. Achong -Member

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**APPEARANCES:**

Mr. C. Robertson )  
1st Vice President ) - for Party No. 1

Ms. J. Roberts- Antoine )  
Attorney-at-Law ) - for Party No. 2

**DATED: August 4<sup>th</sup> 2011**

**JUDGMENT**

**DELIVERED BY: HIS HONOUR MR. L. ACHONG**

This dispute between the Estate Police Association ('the Association') and Caribbean Union College ('the College') concerns the dismissal of Security Officer Estate Corporal Carlton George ('Corporal George'). This dispute was reported to the Ministry of

Labour on 2004 May 13 and a certificate of unresolved Dispute, issued on 2005 July 28, was filed at this Court on 2005 August 5.

The contents of the dismissal letter are reproduced hereunder:

***"April 15 2004***

***Mr. Carlton George  
Security Officer Caribbean Union College  
Royal Road, Maracas  
St. Joseph***

***Dear Mr. George:***

***Re: Defacing of College Property***

***I refer to the captioned and to the meeting held on April 14, 2004, regarding the same.***

***Be advised that the forensic report of Mr. Glen Parmassar (Forensic Document Examiner) leaves very little doubt concerning your involvement in defacing College property with vulgarities and obscenities.***

***Consequently, and unfortunately, I hereby, advise that your services as security officer are terminated with immediate effect. You are required to promptly return all items currently in your possession which belong to the College to the Chief Security Officer, Mr. Stevenson Byng.***

***You are required to report to my office immediately upon arriving on the College compound, in order that you might receive all outstanding payments and/ or benefits accruing.***

***Thank you  
Sincerely***

*Signed  
Esther. E. Simmons"*

The Association called one witness, the aggrieved Corporal George. In his evidence - in- chief Corporal George categorically denied that he had anything to do with the defacing of College property, the offence for which he was dismissed. His evidence was more or less in line with his written statement to the College on 2004, February 2006 where he also denied any involvement whatsoever in the matter.

In fact in his written response to Byng's memo dated 2004 March 9 to him, Corporal George, besides denying any involvement also stated ***"and will request that you stop harassing me please"***.

At various times during his evidence Corporal George painted a picture of himself as a hard working, conscientious, efficient employee who because of those qualities, found that the good working relationship which he initially enjoyed with his supervisor Chief Security Officer Byng, (CSO Byng) deteriorated quickly with CSO Byng believing that his position as Chief Security Officer was being threatened by him, Corporal George.

Corporal George also refuted claims made in the Company's Evidence and Arguments that he was absent without permission and late for work frequently. Additionally, he admitted that he was once suspended for a two week period without pay because he applied for a liquor licence on behalf of his brother who was out of the country.

However, after Mr. Dardaine of the Estate Police Association wrote the College objecting to the suspension, Corporal George was reimbursed two weeks pay.

Cross-examination by Counsel for the College was extensive, but in the opinion of the Special Tribunal (Tribunal) many of the issues dealt with were of no relevance to the matter before the Tribunal which was the termination of Corporal George's employment for the ***"defacing of College property"***.

In the Evidence and Arguments of the College much emphasis was placed on the employee's unauthorised absences late coming and sick leave and cross-examination of the witness did in fact confirm some of this. However, the employer had since 2002 encountered a period of persistent absenteeism and irregular attendance at work. In fact, the employer provided documentary evidence that for the period 2003 January to August, Corporal George was absent for seventeen (17) days and was late fifty five (55) times. Yet for all of his alleged infractions Corporal George was never disciplined, the closest being a threat to discipline by CSO Byng in a memo to Corporal George dated 2003 August 5, which is reproduced hereunder:

***"August 5, 2003***

***To: #16441 E/Cpl C. George***

***From: CSO S. Byng***

***Dear E/Cpl George,***

***This letter is the result of the meeting we had on Monday 4<sup>th</sup> August 2003.***

*I presented the figures of your attendance when we had the last meeting on this matter which showed for the period January 1<sup>st</sup> to March 7<sup>th</sup> 2003: Absent 5, Shift change 3, Late Arrival 19, Early Departure 0, Leave 0 which was 46hours and 59 minutes of absence from your rostered shifts of 376 hours. I pointed out to you that this-was more than 10% of your rostered shifts. You were also warned that if not corrected further action will be taken.*

*I presented the figures from January 1<sup>st</sup> to July 25<sup>th</sup> 2003 and it showed: Absent 16, Shift Change 7, Late Arrival 51, Early Departure 3 Leave (S/L) 13 total 270 hours and 54 minutes which is more than 10% of the 1200 rostered hours worked.*

*I asked what was the reason for your absenteeism and you indicated that the College is in breach of its arrangement with you. You further stated that you were contacted to work 8:00am to 4:00pm Monday to Friday and off on weekends and Public Holidays. I asked you to produce such a document or job specification and you did not.*

*When asked if you see any reason why the College should not take future disciplinary action in this matter of your persistent absenteeism you replied "they could do what they want".*

*From the last two meetings held I have not seen any improvement in your attendance and further disciplinary action would be taken.*

*Respectfully,*

*Stevenson Byng  
Signed*

*Chief Security Officer"*

Another issue that was dealt with extensively by Counsel for Party No. 2 was that of Corporal George's attendance in the Magistrate's Court for a liquor licence. While this action may be contrary to principles and beliefs of the Seventh Day Adventist religion which the College viewed with disdain, the fact that one of its employees should be in any way associated with the granting of a liquor licence for a bar, it was of absolutely no significance to this Tribunal. Hence the Tribunal disregarded in its entirety all evidence on that matter. It was not even a matter the College was entitled to regard as part of his disciplinary record since reimbursement of earnings lost when he was suspended amounted to withdrawal of that disciplinary sanction.

The College's first witness was its CSO Byng. The witness in his evidence in chief confirmed that he was having problems with Corporal George since 2000 December about his attendance and tardiness, yet Corporal George was confirmed in the position of Security Officer on 2001 November 9 effective 1999 July 1. The witness wrote to Corporal George on 2001 December 10 inviting him to a meeting **"to discuss absenteeism, regularity and responsibility as a Senior Officer"**. There were other pieces of correspondence between CSO Byng and Corporal George all about absenteeism, tardiness and attitude.

Concerning the specific incident for which Corporal George was dismissed, CSO Byng said **"the Security Department received more than one complaint with respect to the defacing of the school property. However upon receipt of information concerning the defacing of property at the Administration Building it was easier to narrow down who probably had access to the facility seeing that the incident took place over**

*the carnival weekend when places were closed – offices were closed”.*

He continued, *“Consequently George and all the officers who worked on shift that day were informed about the defacing of the property and requested to write reports regarding these activities and should they hear any information regarding the defacing of school property to inform us.*

*Everyone denied receiving or having knowledge of it and as a result of this information, documents were sent to the forensic laboratory to Mr. Parmassar, the document examiner”.*

When questioned further as to whether all the officers knew that he (CSO Byng) sent samples of their handwriting to a document examiner CSO Byng replied that *“the officers were told that the College would investigate the matter to determine who was responsible and that included the documents being sent to the forensic laboratory”.*

Again in her examination of CSO Byng, Counsel for the College dealt extensively with certain religious issues connected with the Seventh Day Adventist faith which the Tribunal disregarded. CSO Byng's cross-examination by Mr. Robertson yielded nothing more than that which was obtained during his evidence in chief.

The College's second witness was Glen Parmassar who is a Forensic Document Examiner and Currency Examiner. The Tribunal considered him to be an expert witness. He identified a report from him to the College. In his report, Parmassar stated that

he examined the documents sent to him by the College which were defaced with obscene or offensive comments. He was also sent samples of the signatures of the Security Officers who were on duty during the period when the documents were defaced. These signatures belonged to Messrs George, Brown, Baptiste and Peters.

Parmassar concluded that, of the four documents that he examined, it is highly probable that three of the five derogatory comments on them were written by Corporal George. When asked to explain what "**highly probable**" meant, he replied that it meant he (Parmassar) was virtually certain that Corporal George had written the defacing comments. He could not ascertain whether Corporal George had written the other two, but no evidence was found to indicate that Messrs Brown, Baptiste or Peters had written the defacing/ derogatory comments.

Cross-examination by Mr. Robertson of Parmassar provided little help, if any, to the Tribunal.

This is a classic case of mismanagement of an employee. It highlights in our view, gross incompetence on the part of CSO Byng who was extremely negligent in not taking disciplinary action against Estate Corporal George much earlier for a myriad of offences. CSO Byng chose not to discipline George for whatever reason. He only threatened to discipline except for the offence for which he was dismissed.

This Tribunal cannot but accept the findings of an expert witness except for some very good reason, which is not applicable in this



case. We find that Corporal George was responsible for the defacing of the College documents with inappropriate remarks. Such an offence is grave if committed by any employee and especially so when the employee is a member of a paramilitary force. We therefore uphold the College's decision to terminate his services.

This matter is hereby dismissed.

**His Honour Mr. V. Ashby**  
**Chairman**

**Her Honour Mrs. J. Rajkumar Gualbance**  
**Member**

**His Honour Mr. L. Achong**  
**Member**

