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SEEKING THE AID OF THE CCMA

Question

The Imaam of a Musjid was unfairly dismissed during the covid era. The Imaam had refused to implement the covid protocols. The trustees therefore dismissed him. The Imaam applied to the CCMA (Commission for Conciliation, Mediation and Arbitration) for reinstatement on the basis of unfair dismissal. The trustees had demanded that the Imaam enforces the protocols. When he refused, he was dismissed. A substantial amount of money was offered to the Imaam in settlement of the dispute. However, the Imaam refused. His stated motive was to be re-instated to enable him to work to oust the faasiq members of the Trust. What is the Shariah's ruling in this matter?

Answer

Undoubtedly, the employer (the Musjid Committee/Trust) is guilty of such a sin which at the minimum is aggravated *fisq*, and at the worst it is *kufr*. Their sin is akin to *kufr* because it is a blatant violation and rejection of the Shariah and Sunnah in a range of *Ahkaam*. The demand for the Imaam to enforce the *kufr* covid protocols was unjust and *haraam*. Dismissing the Imaam on the basis of his refusal to submit to the *haraam* dictates of the Committee was unjust and *haraam*. According to the Shariah, the Committee has no qualification to be in control of a Musjid. They are *fussaaq* and should be dismissed.

However, even on the basis of accepting that the Imaam was unjustly dismissed and that the Trust had trumped up false charges against him, it was then too, not at all permissible for the Imaam to have sought assistance from the kuffaar CCMA legal facility. The Imaam is also guilty of a heinous sin for having applied to the kuffaar entity to have himself reinstated against the will and wishes of the employer (the Trust).

The Imaam should have applied both his mind and heart to understand that his action of running to the kuffaar entity was haraam. The CCMA awards in terms of kuffaar law. It is not a Shariah entity. The Imaam had conducted himself with gross despicability by having indulged in the haraam CCMA action. He is fortunate from the perspective of the dismissal of his claim by the CCMA.

Assuming that the CCMA had awarded in his favour, his reinstatement would have been *zulm* and haraam. The wages the Trust would have paid him would have been haraam. He would have occupied the imaamate position on the basis of compound haraam and *zulm*. In that case he would have been the *zaalim*, not the fussaag Trust.

In terms of the Shariah the issue is clear-cut and simple. In was a case of an employer having developed detestation for the worker. Now regardless of whether the employer's grievance is just or unjust, he does have the right to dismiss his worker for no valid reason. In fact, both the employer and the employee are entitled to terminate the work contract. Legally, from the Shar'i perspective, there is no validity for the stupidity of 'unfair dismissal'. This concept is kuffaar. It is alien to the Shatiah.

By having gone to the kuffaar CCMA, the Imaam Sahib was enlisting the assistance of the kuffaar to force the employer to reinstate him (the worker), and this is haraam. A man has no right to compel another person / entity to hire him.

While it is haraam for any Muslim to seek the aid of the CCMA, it is particularly evil for a man of *Ilm* who is the Imaam of a Musjid, to resort to the kuffaar entity. The honourable and absolutely necessary thing for the Imaam was to have silently and respectfully resigned and go his way without any motive of revenge for the fussaag Trust. The time of reckoning for the fussaag trustees will come. They will not escape the Wrath of Allah Ta'ala for their haraam support of the kufr covid protocols. But this does

not entitle the Imaam to embrace the kuffaar CCMA for venting his enmity and for seeking revenge.

The Imaam had committed a grievous error, in fact a haraam act, by seeking the aid of the kuffaar CCMA. His focus was not on Allah Ta'ala. He should know that even if an employer dismisses his worker without valid reason, then too, the worker has to accept his dismissal and not complain. There is no compensation for the worker when he is dismissed.

It is permissible according to the Shariah for an employer to terminate the employment of his worker regardless of the worker not having committed any breach. But the Imaam had gone to the kuffaar without understanding that the CCMA would decree in terms of kufr law. He has grievously erred. He must resort to Taubah, and apologize to the other party.

Furthermore, he has committed *zulm* on the other party for involving them in legal fees. The costs must have been high. It is now his obligation to reimburse them for the money they had wasted in defending the haraam action of their former Imaam. Indeed, *Hidaayat* comes from only Allah Ta'ala. He guides whomever He wills, and He misleads whomever He wills. Whoever refers to an entity other than Allah Azza Wa Jal for redress and compensation has turned to Iblees for guidance. In this regard, the Qur'aan Majeed states:

“Have you not seen those who think that they believe in that (Shariah) revealed to you (O Muhammad!) and to those before you, yet they seek judgment from Taaghoot (Shaitaan) whilst they have been commanded to reject him? Shaitaan desires to mislead them into deviation manifest.”

(An-Nisaa', Aayat 60)