

# საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



## Successfully Litigated cases in March

### With GYLA's assistance some public servants were restored to the office

GYLA provided court representation to L.S. who worked as the head of the department in one of the Ministries and was dismissed on December 2012 from the position. Court found his dismissal illegal, therefore the respondent Ministry was ordered to restore him to the office and to compensate for the missed salary for three months as provided for in the legislation.

J. O and J.O. were leading specialists in Fire and Security Service at the Gamgeoba of Sagarejo municipality. According to May 10, 2013 order of local governor of Sagarejo municipality they were dismissed illegally from the office. With assistance from GYLA's

Telavi office they applied to Signagi regional court with application and demanded restoration to their position, as well as compensation for the missed salary. Signagi regional court did not satisfy their claim. The decision has been appealed. By the decision of administrative chamber of Tbilisi Appellate Court the claim of both beneficiaries were partially satisfied. Namely their dismissal order was invalidated without resolution of the subject of dispute and local council of Sagarejo municipality was ordered to issue the new administrative act about labor arrangement of applicants after examination of case materials. Gamgeoba of Sagarejo municipality carried out administrative proceeding on the basis of court decision and both beneficiaries were restored to their former positions. Moreover the employer reimbursed them missed salary in the amount of GEL 1140 to each.

**With GYLA's Assistance, the issue of employee's was returned to public agency for reexamination**

GYLA's Gori office protected in the court N.M.'s interests. She worked as a specialist in Ptsa Territorial unit of Kareli municipality. As a result of pressure exercised by the local envoy, N.M. had to write application on resignation. By that time she was pregnant. According to the order of January 8, 2013 of Kareli municipality, N.M. was dismissed from the office upon her application. With assistance from GYLA's Gori office, N.M. applied to Khashuri regional court with a claim that the application did not express her real opinion and it was written under pressure. She demanded invalidation of dismissal order, restoration to the office and compensation for the missed salary. The first instance court, as well as the appellate court did not satisfy N.M.'s claim under the motive that the application was written by the applicant herself. The case was challenged in the Supreme Court. Administrative Board of the Supreme Court partially satisfied N.M.'s cassation, namely applicant's dismissal order was invalidated and governor of Kareli municipality was ordered to issue the new administrative act about labor arrangement of the applicant after examination of circumstances of the case. The Supreme Court upheld the position of the applicant that public servant's application on resignation can not serve as the ground for dismissal without examination of circumstances of the case and conduct of administrative proceeding. GYLA opines that the decision is vital since it was the first case when the court interpreted the provision of the law on public service in a manner that it will assist to establishment of right practice in similar cases.

**With assistance from GYLA's Gori office individuals will receive compensation from the employer for termination of the contract**

GYLA's Gori office represented in the court interests of 9 (nine) employees dismissed from the Turkish Construction Company located in village Chunchkha of Akhalkalaki municipality. Labor contracts were made for indefinite period. In August 2013, the employer terminated labor contract to them without any preliminary warning or advance written notification. Moreover, they did not receive compensation envisaged by the Labor Code for termination of the contract. With assistance from GYLA's Gori office, they applied to Akhalkalaki regional court for imposing of compensation upon the employer. The same court also approved the settlement act between the parties, according to which the employees will be compensated for month and a half instead of requested two months.

**With GYLA's assistance five beneficiaries received their salary debt**

As a result of legal aid provided by GYLA, Tbilisi State Medical University had to compensate salary debt to 5 individuals that comprised total of GEL 12063. Besides, the respondent also had to compensate 0.07% of the sum on each missed day for delay of compensation. As a result, the total sum exceeded the main debt significantly.

**With GYLA's assistance IDP maintained his living space**

GYLA's Tbilisi Office protected B.T.'s interests, who was provided with housing space by the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees in 2012. In 2013 the Ministry applied to LEPL State National Property Agency and demanded to launch B.Ts.'s eviction process from the living space. Under the Ministry's argumentation, B.T. was not living there, though according to the case materials the opposite was confirmed.

The court upheld GYLA's argumentation and found the Ministry's decision on B.T.'s eviction unreasonable. In view of this, individual administrative acts adopted by the Ministry were invalidated.

### **With assistance from GYLA's Dusheti Office the court acquitted the defendant**

At the stage of investigation and in the court the lawyer from GYLA's Dusheti office has been protecting G.O.'s interests, accused in the case of physical abuse. In the course of hearing on merits, the defense managed to convince the court in innocence of the defendant. The lawyer proved that D.O. acted within the scope of necessary defense. Moreover, the lawyers also alleged that had the defendant exceeded the scope of necessary defense it could not have been considered punishable act since no grievous bodily harm or less serious bodily harm had been observed. Prosecution failed to submit sufficient evidences for considering defendant guilty. After assessing evidences the court concluded that D.O. acted within the scope of necessary defense and delivered acquittal.

### **With GYLA's assistance the criminal case has been terminated against I.K.**

GYLA provided court representation to I. K., participant of the November 7, 2007 rally. Following some days, on November 13, 2007 he was charged as per Para 2, Article 225 of the Criminal Procedure Code (organization or coordination of group conduct followed with violence, abuse, damage of other's property, application of firearms, resistance to state representatives with firearms or attack – the second paragraph envisaged participation in such conduct). With GYLA's assistance I.K. applied with motion to the Ministry of Justice, Prosecutor General and City Prosecutor and asked termination of criminal proceeding against him. Finally, the prosecutor's office terminated criminal case.

### **With assistance from GYLA's Gori office, issuing of social aid was restored to the indigent family**

GYLA's Gori office represented R.T.'s interests in the administrative proceeding conducted in Social Service Agency. Since 2006, his family was registered in the united data base of socially indigent families and received social aid. The only income of R.T.'s family is his pension. In November 2013, social aid was terminated to them under the ground that they have installed the new gas heater in the house. With assistance from GYLA's Gori office R.T. applied to the Social Service Agency with administrative complaint and appealed the decision on termination of social aid. As a

result of conducted administrative proceeding, R.T.'s administrative complaint was satisfied. Specifically, socio-economic condition of the family was reexamined and social aid was restored to them.

**With assistance from GYLA's Ajara branch, the beneficiary was compensated 75% of the market price of occupied space instead termination of ownership on the housing space**

GYLA's Ajara branch protected M.P.'s interests who used lawfully other's living space. With assistance from GYLA's Ajara branch, he applied to Batumi City Court with a claim to transfer the title on the property in exchange to 25% of the market price of the occupied space. Consequently, with the same court decision, the settlement act was reached among the parties and M.P.'s family will receive from the owner 75% (USD 7000) of the market price of the occupied space and afterwards it will vacate the venue.

**With assistance from GYLA's Dusheti office more lenient administrative penalty was imposed upon the beneficiary**

GYLA's Dusheti office represented in the court N.I.'s interests. Employees of environmental inspection unit drafted against him protocol of administrative offence for transportation of timber without special permit or special sign. Administrative offence envisages penalty in the amount of GEL 1000, with confiscation of timber or without it. With assistance from GYLA's Dusheti office, the court found N.I. administrative offender as per other article and fined him GEL 500.