

Political appointments ruin the civil service: The case of Alef

By Steve Adler

MY JUDGMENT in this case became one of the leading precedents for preventing political appointments in the civil service.

The workplace involved was the National Insurance Institute (NII), which administers Israel's social welfare program, the largest and most important budget in the government service.

Mr. Alef (name withheld to avoid unnecessary embarrassment) began working in the Haifa branch as a department manager and shortly after was promoted to assistant branch manager. His appointments and promotion were arranged by the Likud political party. In Alef's human resource folder was a "Dear Mutka (Mordechai)" letter to NII director general Mordechai Tzipori from the Likud party Haifa branch chairman, saying that Alef was "one of ours," and a "senior" Likud official requested his promotion. Tzipori was a former Likud MK (1977-1984) and communications minister (1981-1984). He wrote "read" on the letter and filed it in Alef's human resource folder.

Linda Toledano and Sol Rotenberg worked in the Haifa NII branch for many years, learning and applying the complicated laws and regulations, and they expected an eventual promotion to a senior position, such as department head or branch manager. Alef's promotion was resented by them and other branch employees, who regarded it as politically motivated and ignoring their experience, knowledge, dedication and contribution to the workplace.

Toledano petitioned the Haifa Regional Labor Court to prevent Alef's department manager appointment, and the NII agreed to compensate her for the injustice done. Rotenberg petitioned the same trial court to prevent Alef's appointment as assistant branch manager and won. The NII and Alef appealed.

My judgment in the appeal court denying Alef's plea reviewed the facts, which clearly indicated that Alef's appointment and promotion were unreasonable. Alef was lacking the knowledge and experience necessary to ad-



AMOS BEN GERSHOM/GPO

President Isaac Herzog presides over a ceremony for swearing in new judges at the President's Residence on May 9, 2022.

minister the complex NII laws and regulations. It was unreasonable to appoint him instead of veteran workers. Alef was involved in disputes with branch workers, and internal NII audits found that he was incompetent, had violated NII laws and regulations, created a hostile work environment, and recommended his dismissal. The political motivation for Alef's appointment was proven by the "Dear Motka" letter and Tzipori's political background.

My judgment was the second major Israeli court case voiding a civil service appointment that was based on irrelevant and/or illegal considerations, such as political party connections, bribes. Managers are allowed and even expected to evaluate workers and make recommendations regarding promotions. However, these must be based on relevant considerations and not political party connections. While the court should not replace management in deciding on promotions or appointments, it is obliged to void decisions based on illegal motives. The judgment rejected the NII management's

claim that the court could not void an appointment if there was no specific admission of political considerations. We rejected this claim, since a government official cannot be expected to admit to illegal actions, but these can be determined by a careful evaluation of the facts.

According to published judgments, this saga did not end in our court. The NII appointed Alef manager of another NII branch near Haifa and ignored branch workers' complaints that Alef was incompetent and created a hostile work atmosphere. Police filed a criminal indictment against Alef in the Haifa Magistrate's Court, apparently alleging sexual harassment or bullying. The government civil service commissioner suspended him, and another branch manager was appointed. Years later, Alef was acquitted, was offered another NII position, but he insisted on returning to his previous position. His petition to the Haifa Labor Court to return as branch manager was rejected in an agreed compromise, but one of the lay judges wrote that, in his opinion, Alef



MARC ISRAEL SELLEM

MK Simcha Rothman chairs a heated discussion in the Knesset Constitution, Law and Justice Committee on the appointment of judges on March 26.



AVSHALOM SASSONI

Some 150 lawyers protest in Tel Aviv against the government's plan to remove Israel Bar Association members from the committee to appoint judges.

was not suited to be a public servant, was overly forceful, uncouth, rude, quick to anger, and not always truthful. I don't know how this saga was resolved or what Alef is doing after these events.

Israel has many laws and regulations that attempt to eliminate political considerations

and favoritism in civil service appointments and promotions. Nevertheless, most political parties attempt to finagle appointments and promotions for party workers and supporters. Party membership and activity are seen by many as the ticket for advancement in the public sector.

Political appointments have a cancerous effect on the civil service. In many instances, incompetent people are appointed and the civil service becomes mediocre. Government officials whose decisions are influenced by their political party have little ability or interest in improving government quality and efficiency. Veteran civil service workers lose incentive to work hard because there is little chance for advancement.

The Alef case is especially relevant today because of the current dispute about judicial appointments. Today, judges are appointed by a committee of four government party politicians, two bar representatives, and three Supreme Court judges. This balance of power gives government the majority say in judicial appointments but requires compromises with the other committee members. The committee has input from the judges' and the bar members' knowledge of the candidate's past performance and conduct. It benefits from the politician members' interest that judicial appointments should reflect all aspects of the population and political spectrum. It also allows politicians to resist political pressure to appoint incompetent judges.

A negative result from giving government members of the appointment committee absolute power and canceling the current balance among government, judges and bar members will probably be the appointment of incompetent judges. What if a person like Alef applied to be a judge, and senior party officials pressured that he be appointed because the party owed him a favor and needed the continued support of his friends? Political committee members would be required to appoint Alef; those appearing before him in court would suffer insults, incompetence, and injustice; and competent candidates would be overlooked. What would Alef do if a senior party member "hinted" that he should decide a case in favor of a party member? Alef had sworn allegiance to uphold the law, but his promotions in the judicial system would be dependent on party officials. Under the proposed judicial committee, Alef would lose his independence which our judicial system is blessed with today.

The tragedy of the dispute over the government's proposals for court reform is that there are serious measures required to improve the legal system (courts, state attorney and police), but these are not being proposed or discussed. ■

The writer is a former president of the National Labor Court.