

SIXTEENTH ORDINARY SESSION

***In re* JURADO**

(No. 17 - Termination of Appointment)

Judgment No. 96

THE ADMINISTRATIVE TRIBUNAL,

Considering the complaint against the International Labour Organisation drawn up by Mr. Jurado, Cesáreo, on 10 August 1965, in which he prays: (1) for the quashing of the decision of the Director-General of the I.L.O. on 29 July 1966 to terminate his services on 31 August 1966 or to pay him an indemnity equal to three months' salary; (2) for the President of the Tribunal to order various preliminary measures; (3) that Judges Letourneur, Grisel and Armbruster should not try the case, and (4) for the award of compensation under nine different heads;

Considering the reply of the Organisation of 9 September 1966 which submits that the complaint should be dismissed;

Considering Articles VI, VII and VIII of the Statute of the Tribunal and Articles 1.1 to 1.7 and 12.8 of the Staff Regulations of the International Labour Office;

Having examined the documents in the dossier, whereupon the oral proceedings requested by the complainant were found to be unnecessary to the disposition of the case and were disallowed;

CONSIDERATIONS:

On the objection to the composition of the Tribunal

1. Neither the fact that two of the judges who sat in the case previously brought by Mr. Jurado before the Tribunal, which gave rise to Judgment No. 70 delivered by that Tribunal on 11 September 1964 have been called upon to hear a further case brought by the same complainant nor the fact that one of these Judges is of Swiss nationality or sits on the Supreme Court of that country can be regarded by itself as a valid ground for objection to these judges.

On the request for preliminary measures

2. Mr. Jurado complaining of the duress and intimidation with which he is faced and may continue to be faced on the part of the I.L.O. prays the President of the Tribunal to take all necessary measures to guarantee his complete independence and the free exercise of his rights. The fact that the proceedings are being conducted by the Tribunal itself affords the complainant every necessary guarantee; moreover, the Tribunal finds no evidence whatsoever of duress or intimidation on the part of the I.L.O.

3. Complainant's submission that the President of the Tribunal should make an order to authorise him to communicate the dossier of the case to the Spanish Government does not fall within the competence of either the President or the Tribunal. Finally, Mr. Jurado asks the President of the Tribunal to order the International Labour Office to acknowledge as its own the document attached to the letter of the Director-General of 25 July 1966, but the Organisation in its reply fully acknowledges the said document.

On the decision complained of

4. While complainants have an absolute right to apply to the Administrative Tribunal, within the jurisdiction assigned to it, without any restriction and are allowed great freedom in supporting their claims, both in form and in substance, this right and this freedom are granted to ensure respect for their terms of appointment.

5. By his repeated complaints against decisions which, in general, did not affect his rights as an official, by

reverting on several occasions to allegations which the Tribunal had already dismissed, by applying to the Tribunal for the purpose of lending force to the wild and unnecessarily wounding allegations which he has repeatedly made against the Organisation and the Swiss authorities, Mr. Jurado has entirely perverted from its proper purpose the right of appeal to the Administrative Tribunal afforded to I.L.O. Officials and has affronted the dignity of his Organisation and of the Tribunal.

6. In these circumstances, the complainant's behaviour, in which he persisted over a period of several years in spite of warnings from the Organisation and from the Tribunal, showed repeated infringements by him, in particular of Article 1.1, 1.2 and 1.7 of the Staff Regulations and was of a nature to throw public discredit on the Organisation; it thus constituted serious misconduct which under Article 12.8 of the Staff Regulations was such as legally to justify his summary dismissal without notice.

7. If the procedure laid down by the above-mentioned article was not followed, this was at the formal request of the complainant who in a letter dated 28 July 1966 stated his express desire to be able to file a complaint directly with the Tribunal against any decision that might be taken to terminate his appointment.

8. Even assuming that the conditions specified in Article 12.8 referred to above were not fulfilled and that no other basis could be found for the decision impugned, there could be no question of quashing that decision, but only of awarding Mr. Jurado compensation which, in the circumstances of the case, could not exceed the amount which the Organisation has seen fit to award him *ex gratia*.

On the award of compensation (heads (a) to (c), (f) and (i))

9. The submissions under these heads must be dismissed as a consequence of the dismissal of the submissions regarding the decision complained of.

On the award of compensation (head (d))

10. Whereas Mr. Jurado claims an indemnity of 50,000 Swiss francs for the prejudice caused to his health, the attitude of the I.L.O. which remained not only impeccable throughout, but was also benevolent, cannot in any way be regarded as being such as to affect adversely the health of the complainant.

On the award of compensation (heads (e) and (g))

11. The assertions relied upon for the claims under these two heads are manifestly erroneous in fact and misconceived in law, and the above claims must be set aside.

On the award of compensation (head (h))

12. These submissions must be dismissed as unfounded partly because no compensation can be granted to a complainant for the work he carried out personally for the purpose of defending his own interests and also because dismissal of the submissions under the other heads involve the dismissal of any claim for reimbursement of expenses actually incurred in the preparation of the complaint.

On the submissions concerning the award of a certificate of service

13. Complainant does not adduce any evidence whatsoever of the existence of any decision of the Organisation to refuse a certificate of service. The submissions under this head are therefore not receivable

DECISION:

For the above reasons,

The complaint is dismissed.

In witness of this judgment, delivered in public sitting in Geneva on 11 October 1966 by Mr. Maxime Letourneur, President, Mr. André Grisel, Vice-President, and the Right Honourable Lord Devlin, P.C., Judge, the aforementioned have hereunto subscribed their signatures, as well as myself, Lemoine, Registrar of the Tribunal.

(Signed)

M. Letourneur
André Grisel
Devlin
Jacques Lemoine

Updated by PFR. Approved by CC. Last update: 7 July 2000.