

ERNESTO L. CALLADO, PETITIONER, VS. INTERNATIONAL RICE RESEARCH INSTITUTE, RESPONDENT.

G.R. No. 106483. May 22, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

Did the International Rice Research Institute (IRRI) waive its immunity from suit in this dispute which arose from an employer-employee relationship?

We rule in the negative and vote to dismiss the petition.

Ernesto Callado, petitioner, was employed as a driver at the IRRI from April 11, 1983 to December 14, 1990. On February 11, 1990, while driving an IRRI vehicle on an official trip to the Ninoy Aquino International Airport and back to the IRRI, petitioner figured in an accident.

Petitioner was informed of the findings of a preliminary investigation conducted by the IRRI's Human Resource Development Department Manager in a Memorandum dated March 5, 1990.[1] In view of the aforesaid findings, he was charged with:

"(1) Driving an institute vehicle while on official duty under the influence of liquor;

(2) Serious misconduct consisting of your failure to report to your supervisors the failure of your vehicle to start because of a problem with the car battery which, you alleged, required you to overstay in Manila for more than six (6) hours, whereas, had you reported the matter to IRRI, Los Banos by telephone, your problem could have been solved within one or two hours;

(3) Gross and habitual neglect of your duties."[2]

In a Memorandum dated March 9, 1990, petitioner submitted his answer and defenses to the charges against him.[3] After evaluating petitioner's answer, explanations and other evidence, IRRI issued a Notice of Termination to petitioner on December 7, 1990.[4]

Thereafter, petitioner filed a complaint on December 19, 1990 before the Labor Arbiter for illegal dismissal, illegal suspension and indemnity pay with moral and exemplary damages and attorney's fees.

On January 2, 1991, private respondent IRRI, through counsel, wrote the Labor Arbiter to inform him that the Institute enjoys immunity from legal process by virtue of Article 3 of Presidential Decree No. 1620,[5] and that it invokes such diplomatic immunity and privileges as an international organization in the instant case filed by petitioner, not having waived the same.[6]

IRRI likewise wrote in the same tenor to the Regional Director of the Department of Labor and Employment.[7]

While admitting IRRI's defense of immunity, the Labor Arbiter, nonetheless, cited an Order issued by the Institute on August 13, 1991 to the effect that "in all cases of termination, respondent IRRI waives its immunity,"[8] and,

accordingly, considered the defense of immunity no longer a legal obstacle in resolving the case. The dispositive portion of the Labor Arbiter's decision dated October 31, 1991, reads:

"WHEREFORE, premises considered, judgment is hereby rendered ordering respondent to reinstate complainant to his former position without loss or (sic) seniority rights and privileges within five (5) days from receipt hereof and to pay his full backwages from March 7, 1990 to October 31, 1991, in the total amount of P83,048.75 computed on the basis of his last monthly salary." [9]

The NLRC found merit in private respondent's appeal and, finding that IRRI did not waive its immunity, ordered the aforesaid decision of the Labor Arbiter set aside and the complaint dismissed. [10]

Hence, this petition where it is contended that the immunity of the IRRI as an international organization granted by Article 3 of Presidential Decree No. 1620 may not be invoked in the case at bench inasmuch as it waived the same by virtue of its Memorandum on "Guidelines on the handling of dismissed employees relation to P.D. 1620." [11]

It is also petitioner's position that a dismissal of his complaint before the Labor Arbiter leaves him no other remedy through which he can seek redress. He further states that since the investigation of his case was not referred to the Council of IRRI Employees and Management (CIEM), he was denied his constitutional right to due process.

We find no merit in petitioner's arguments.

IRRI's immunity from suit is undisputed.

Presidential Decree No. 1620, Article 3 provides:

"Article 3. Immunity from Legal Process. The Institute shall enjoy immunity from any penal, civil and administrative proceedings, except insofar as that immunity has been expressly waived by the Director-General of the Institute or his authorized representatives."

In the case of *International Catholic Migration Commission v. Hon. Calleja, et al. and Kapisanan ng Manggagawa at TAC sa IRRI v. Secretary of Labor and Employment and IRRI*, [12] the Court upheld the constitutionality of the aforequoted law. After the Court noted the letter of the Acting Secretary of Foreign Affairs to the Secretary of Labor dated June 17, 1987, where the immunity of IRRI from the jurisdiction of the Department of Labor and Employment was sustained, the Court stated that this opinion constituted "a categorical recognition by the Executive Branch of the Government that x x x IRRI enjoy(s) immunities accorded to international organizations, which determination has been held to be a political question conclusive upon the Courts in order not to embarrass a political department of Government." [13] We cited the Court's earlier pronouncement in *WHO v. Hon. Benjamin Aquino, et al.*, [14] to wit:

"It is a recognized principle of international law and under our system of separation of powers that diplomatic immunity is essentially a political question and courts should refuse to look beyond a determination by the executive branch of the government, and where the plea of diplomatic immunity is recognized and affirmed by the executive branch of the government as in the case at bar, it is then the duty of the courts to accept the claim of immunity upon appropriate suggestion by the principal law officer of the government. . . or other officer acting under his direction. Hence, in adherence to the settled principle that courts may not so exercise their jurisdiction . . . as to embarrass the executive arm of the government in conducting foreign relations, it is accepted doctrine that in such cases the judicial department of (this) government follows the action of the political branch and will not embarrass the latter by assuming an antagonistic jurisdiction." [15]

Further, we held that "(t)he *raison d'être* for these immunities is the assurance of unimpeded performance of their

functions by the agencies concerned.

The grant of immunity from local jurisdiction to x x x and IRRI is clearly necessitated by their international character and respective purposes. The objective is to avoid the danger of partiality and interference by the host country in their internal workings. The exercise of jurisdiction by the Department of Labor in these instances would defeat the very purpose of immunity, which is to shield the affairs of international organizations, in accordance with international practice, from political pressure or control by the host country to the prejudice of member States of the organization, and to ensure the unhampered performance of their functions."[16]

The grant of immunity to IRRI is clear and unequivocal and an express waiver by its Director-General is the only way by which it may relinquish or abandon this immunity.

On the matter of waiving its immunity from suit, IRRI had, early on, made its position clear. Through counsel, the Institute wrote the Labor Arbiter categorically informing him that the Institute will not waive its diplomatic immunity. In the second place, petitioner's reliance on the Memorandum with "Guidelines in handling cases of dismissal of employees in relation to P.D. 1620" dated July 26, 1983, is misplaced. The Memorandum reads, in part:

"Time and again the Institute has reiterated that it will not use its immunity under P.D. 1620 for the purpose of terminating the services of any of its employees. . Despite continuing efforts on the part of IRRI to live up to this undertaking, there appears to be apprehension in the minds of some IRRI employees. To help allay these fears the following guidelines will be followed hereafter by the Personnel/Legal Office while handling cases of dismissed employees.

x x x x x x x x

2. Notification/manifestation to MOLE or labor arbiter

If and when a dismissed employee files a complaint against the Institute contesting the legality of dismissal, IRRI's answer to the complaint will:

1) Indicate in the identification of IRRI that it is an international organization operating under the laws of the Philippines including P.D. 1620.

and 2) Base the defense on the merits and facts of the case as well as the legality of the cause or causes for termination.

3. Waiving immunity under P.D. 1620

If the plaintiff's attorney or the arbiter, asks if IRRI will waive its immunity we may reply that the Institute will be happy to do so, as it has in the past in the formal manner required thereby reaffirming our commitment to abide by the laws of the Philippines and our full faith in the integrity and impartiality of the legal system."[17] (Underscoring in this paragraphs ours)

From the last paragraph of the foregoing quotation, it is clear that in cases involving dismissed employees, the Institute may waive its immunity, signifying that such waiver is discretionary on its part.

We agree with private respondent IRRI that this memorandum cannot, by any stretch of the imagination, be considered the express waiver by the Director-General. Respondent Commission has quoted IRRI's reply thus:

"The 1983 x x x is an internal memo addressed to Personnel and Legal Office and was issued for its guidance in handling those cases where IRRI opts to waive its immunity. It is not a declaration of waiver for all cases. This is apparent from the use of the permissive term "may" rather than the mandatory term "shall" in the last paragraph of the memo. Certainly, the memo cannot be considered as the express waiver by the Director

General as contemplated by P.D. 1620, especially since the memo was issued by a former Director-General. At the very least, the express declaration of the incumbent Director-general supersedes the 1983 memo and should be accorded greater respect. It would be equally important to point out that the Personnel and Legal Office has been non-existent since 1988 as a result of major reorganization of the IRRI. Cases of IRRI before DOLE are handled by an external Legal Counsel as in this particular case." [18] (Underscoring supplied)

The memorandum, issued by the former Director-General to a now-defunct division of the IRRI, was meant for internal circulation and not as a pledge of waiver in all cases arising from dismissal of employees. Moreover, the IRRI's letter to the Labor Arbiter in the case at bench made in 1991 declaring that it has no intention of waiving its immunity, at the very least, supplants any pronouncement of alleged waiver issued in previous cases.

Petitioner's allegation that he was denied due process is unfounded and has no basis.

It is not denied that he was informed of the findings and charges resulting from an investigation conducted of his case in accordance with IRRI policies and procedures. He had a chance to comment thereon in a Memorandum he submitted to the Manager of the Human Resource and Development Department. Therefore, he was given proper notice and adequate opportunity to refute the charges and findings, hereby fulfilling the basic requirements of due process.

Finally, on the issue of referral to the Council of IRRI Employees and Management (CIEM), petitioner similarly fails to persuade the Court.

The Court, in the *Kapisanan ng mga Manggagawa at TAC sa IRRI* case, [19] held:

"Neither are the employees of IRRI without remedy in case of dispute with management as, in fact, there had been organized a forum for better management-employee relationship as evidenced by the formation of the Council of IRRI Employees and Management (CIEM) wherein 'both management and employees were and still are represented for purposes of maintaining mutual and beneficial cooperation between IRRI and its employees.' The existence of this Union factually and tellingly belies the argument that Pres. Decree No. 1620, which grants to IRRI the status, privileges and immunities of an international organization, deprives its employees of the right to self-organization."

We have earlier concluded that petitioner was not denied due process, and this, notwithstanding the non-referral to the Council of IRRI Employees and Management. Private respondent correctly pointed out that petitioner, having opted not to seek the help of the CIEM Grievance Committee, prepared his answer by his own self. [20] He cannot now fault the Institute for not referring his case to the CIEM.

IN VIEW OF THE FOREGOING, the petition for certiorari is DISMISSED. No costs.

SO ORDERED.

Feliciano, (Chairman), Melo, and Vitug, JJ., concur.
Francisco, J., on leave.

[1] Rollo, p. 83.

[2] Rollo, pp. 84-85.

[3] Rollo, p. 86.

[4] Rollo, p. 90.

[5] "Granting to the International Rice Research Institute (IRRI) the Status, Prerogatives, Privileges and

Immunities of an International Organization."

[6] Letter to Hon. Numeriano D. Villena, dated January 2, 1991. Rollo, p. 92.

[7] Rollo, p. 94.

[8] Rollo, p. 99.

[9] Rollo, p. 114.

[10] Decision dated March 20, 1992; Penned by Commissioner Ireneo B. Bernardo, with Presiding Commissioner Lourdes C. Javier and Commissioner Rogelio I. Rayala concurring. Rollo, p. 72.

[11] Memorandum dated July 26, 1983, from the Director General to the Personnel and Legal Office Rollo, at Rollo, p. 47; Rollo, p. 31.

[12] G.R. No. 85750 and G.R. No. 89331, September 28, 1990, 190 SCRA 130.

[13] Supra at pp. 139-140.

[14] G.R. No. L-35131, November 29, 1972, 48 SCRA 242.

[15] 190 SCRA 140.

[16] Supra, p. 143.

[17] Rollo, p. 47.

[18] Rollo, p. 77.

[19] G.R. No. 89331, September 28, 1990, 190 SCRA 130.

[20] Rollo, p. 69.

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