

**SOUTHEAST ASIAN FISHERIES DEVELOPMENT  
CENTER--AQUACULTURE DEPARTMENT (SEAFDEC-AQD), DR. FLOR  
LACANILAO (CHIEF), RUFIL CUEVAS (HEAD, ADMINISTRATIVE DIV.),  
BEN DELOS REYES (FINANC...**

*G.R. No. 86773. February 14, 1992*

Ponente: NOCON, J.

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**NOCON, J.:**

This is a petition for certiorari to annul and set aside the July 26, 1988 decision of the National Labor Relations Commission sustaining the labor arbiter, in holding herein petitioners Southeast Asian Fisheries Development Center-Aquaculture Department (SEAFDEC-AQD), Dr. Flor Lacanilao, Rufil Cuevas and Ben de los Reyes liable to pay private respondent Juvenal Lazaga the amount of P126,458.89 plus interest thereon computed from May 16, 1986 until full payment thereof is made, as separation pay and other post-employment benefits, and the resolution denying the petitioners' motion for reconsideration of said decision dated January 9, 1989.

The antecedent facts of the case are as follows:

SEAFDEC-AQD is a department of an international organization, the Southeast Asian Fisheries Development Center, organized through an agreement entered into in Bangkok, Thailand on December 28, 1967 by the governments of Malaysia, Singapore, Thailand, Vietnam, Indonesia and the Philippines with Japan as the sponsoring country (Article 1, Agreement Establishing the SEAFDEC).

On April 20, 1975, private respondent Juvenal Lazaga was employed as a Research Associate on a probationary basis by the SEAFDEC-AQD and was appointed Senior External Affairs Officer on January 5, 1983 with a monthly basic salary of P8,000.00 and a monthly allowance of P4,000.00. Thereafter, he was appointed to the position of Professional III and designated as Head of External Affairs Office with the same pay and benefits.

On May 8, 1986, petitioner Lacanilao in his capacity as Chief of SEAFDEC-AQD sent a notice of termination to private respondent informing him that due to the financial constraints being experienced by the department, his services shall be terminated at the close of office hours on May 15, 1986 and that he is entitled to separation benefits equivalent to one (1) month of his basic salary for every year of service plus other benefits (Rollo, p. 153).

Upon petitioner SEAFDEC-AQD's failure to pay private respondent his separation pay, the latter filed on March 18, 1987 a complaint against petitioners for non-payment of separation benefits plus moral damages and attorney's fees with the Arbitration Branch of the NLRC (Annex "C" of Petition for Certiorari).

Petitioners in their Answer with counterclaim alleged that the NLRC has no jurisdiction over the case inasmuch as the SEAFDEC-AQD is an international organization and that private respondent must first secure clearances from the proper departments for property or money accountability before any claim for separation pay will be paid, and which clearances had not yet been obtained by the private respondent.

A formal hearing was conducted whereby private respondent alleged that the non-issuance of the clearances by the petitioners was politically motivated and in bad faith. On the other hand, petitioners alleged that private respondent has property accountability and an outstanding obligation to SEAFDEC-AQD in the amount of P27,532.11. Furthermore, private respondent is not entitled to accrued sick leave benefits amounting to P44,000.00 due to his failure to avail of the same during his employment with the SEAFDEC-AQD (Annex "D", Id.).

On January 12, 1988, the labor arbiter rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered ordering respondents:

1. To pay complainant P126,458.89, plus legal interest thereon computed from May 16, 1986 until full payment thereof is made, as separation pay and other post-employment benefits;
2. To pay complainant actual damages in the amount of P50,000, plus 10% attorney's fees.

All other claims are hereby dismissed.

SO ORDERED." (Rollo, p. 51, Annex "E")

On July 26, 1988, said decision was affirmed by the Fifth Division of the NLRC except as to the award of P50,000.00 as actual damages and attorney's fees for being baseless. (Annex "A", p. 28, id.)

On September 3, 1988, petitioners filed a Motion for Reconsideration (Annex "G", id.) which was denied on January 9, 1989. Thereafter, petitioners instituted this petition for certiorari alleging that the NLRC has no jurisdiction to hear and decide respondent Lazaga's complaint since SEAFDEC-AQD is immune from suit owing to its international character and the complaint is in effect a suit against the State which cannot be maintained without its consent.

The petition is impressed with merit.

Petitioner Southeast Asian Fisheries Development Center-Aquaculture Department (SEAFDEC-AQD) is an international agency beyond the jurisdiction of public respondent NLRC.

It was established by the Governments of Burma, Kingdom of Cambodia, Republic of Indonesia, Japan, Kingdom of Laos, Malaysia, Republic of the Philippines, Republic of Singapore, Kingdom of Thailand and Republic of Vietnam (Annex "H", Petition).

The Republic of the Philippines became a signatory to the Agreement establishing SEAFDEC on January 16, 1968. Its purpose is as follows:

"The purpose of the Center is to contribute to the promotion of the fisheries development in Southeast Asia by mutual cooperation among the member governments of the Center, hereinafter called the 'Members', and through collaboration with international organizations and governments external to the Center. (Agreement Establishing the SEAFDEC, Art. 1; Annex "H", Petition)" (p. 310, Rollo)

SEAFDEC-AQD was organized during the Sixth Council Meeting of SEAFDEC on July 3-7, 1973 in Kuala Lumpur, Malaysia as one of the principal departments of SEAFDEC (Annex "I", id.) to be established in Iloilo for the promotion of research in aquaculture. Paragraph 1, Article 6 of the Agreement establishing SEAFDEC mandates:

"1. The Council shall be the supreme organ of the Center and all powers of the Center shall be vested in the Council."

Being an intergovernmental organization, SEAFDEC including its Departments (AQD), enjoys functional independence and freedom from control of the state in whose territory its office is located.

As Senator Jovito R. Salonga and Former Chief Justice Pedro L. Yap stated in their book, *Public International Law* (p. 83, 1956 ed.):

"Permanent international commissions and administrative bodies have been created by the agreement of a considerable number of States for a variety of international purposes, economic or social and mainly non-political. Among the notable instances are the International Labor Organization, the International Institute of Agriculture, the International Danube Commission. In so far as they are autonomous and beyond the control of any one State, they have a distinct juridical personality independent of the municipal law of the State where they are situated. As such, according to one leading authority 'they must be deemed to possess a species of international personality of their own.' (Salonga and Yap, *Public International Law*, 83 [1956 ed.])"

Pursuant to its being a signatory to the Agreement, the Republic of the Philippines agreed to be represented by one Director in the governing SEAFDEC Council (Agreement Establishing SEAFDEC, Art. 5, Par. 1, Annex "H", *ibid*) and that its national laws and regulations shall apply only insofar as its contribution to SEAFDEC of "an agreed amount of money, movable and immovable property and services necessary for the establishment and operation of the Center" are concerned (Art. 11, *ibid*). It expressly waived the application of the Philippine laws on the disbursement of funds of petitioner SEAFDEC-AQD (Section 2, P.D. No. 292).

The then Minister of Justice likewise opined that Philippine Courts have no jurisdiction over SEAFDEC-AQD in Opinion No. 139, Series of 1984 -

"4. One of the basic immunities of an international organization is immunity from local jurisdiction, i.e., that it is immune from the legal writs and processes issued by the tribunals of the country where it is found. (See *Jenks, Id.*, pp. 37-44) The obvious reason for this is that the subjection of such an organization to the authority of the local courts would afford a convenient medium thru which the host government may interfere in their operations or even influence or control its policies and decisions of the organization; besides, such subjection to local jurisdiction would impair the capacity of such body to discharge its responsibilities impartially on behalf of its member-states. In the case at bar, for instance, the entertainment by the National Labor Relations Commission of Mr. Madamba's reinstatement cases would amount to interference by the Philippine Government in the management decisions of the SEARCA governing board; even worse, it could compromise the desired impartiality of the organization since it will have to suit its actuations to the requirements of Philippine law, which may not necessarily coincide with the interests of the other member-states. It is precisely to forestall these possibilities that in cases where the extent of the immunity is specified in the enabling instruments of international organizations, jurisdictional immunity is specified in the enabling instruments of international organizations, jurisdictional immunity from the host country is invariably among the first accorded. (See *Jenks, Id.*; See also *Bowett, The Law of International Institutions*, pp. 284-1285)."

Respondent Lazaga's invocation of estoppel with respect to the issue of jurisdiction is unavailing because estoppel does not apply to confer jurisdiction to a tribunal that has none over a cause of action. Jurisdiction is conferred by law. Where there is none, no agreement of the parties can provide one. Settled is the rule that the decision of a tribunal not vested with appropriate jurisdiction is null and void. Thus, in *Calimlim vs. Ramirez*, this Court held:

"A rule that had been settled by unquestioned acceptance and upheld in decisions so numerous to cite is that the jurisdiction of a court over the subject matter of the action is a matter of law and may not be conferred by consent or agreement of the parties. The lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal. This doctrine has been qualified by recent pronouncements which stemmed principally from the ruling in the cited case of *Sibonghanoy*. It is to be regretted, however, that the holding in said case had been applied to situations which were obviously not contemplated therein. The exceptional

circumstances involved in Sibonghanoy which justified the departure from the accepted concept of non-waivability of objection to jurisdiction has been ignored and, instead a blanket doctrine had been repeatedly upheld that rendered the supposed ruling in Sibonghanoy not as the exception, but rather the general rule, virtually overthrowing altogether the time-honored principle that the issue of jurisdiction is not lost by waiver or by estoppel." (Calimlim vs. Ramirez, G.R. No. L-34362, 118 SCRA 399 [1982])

Respondent NLRC'S citation of the ruling of this Court in *Lacanilao v. De Leon* (147 SCRA 286 [1987]) to justify its assumption of jurisdiction over SEAFDEC is misplaced. On the contrary, the court in said case explained why it took cognizance of the case. Said the Court:

"We would note, finally, that the present petition relates to a controversy between two claimants to the same position; this is not a controversy between the SEAFDEC on the one hand, and an officer or employee, or a person claiming to be an officer or employee, of the SEAFDEC, on the other hand. There is before us no question involving immunity from the jurisdiction of the Court, there being no plea for such immunity whether by or on behalf of SEAFDEC, or by an official of SEAFDEC with the consent of SEAFDEC (Id., at 300; underscoring supplied)."

WHEREFORE, finding SEAFDEC-AQD to be an international agency beyond the jurisdiction of the courts or local agency of the Philippine government, the questioned decision and resolution of the NLRC dated July 26, 1988 and January 9, 1989, respectively, are hereby REVERSED and SET ASIDE for having been rendered without jurisdiction. No costs.

**SO ORDERED.**

Melencio-Herrera, (Chairman), Paras, Padilla, and Regalado, JJ., concur.

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