



Comisión Nacional de los Derechos Humanos

México

Recommendation 69/2011

The following is a synopsis of the recommendation emitted by the CNDH . The complete version may be consulted on this institution's web page.

Mexico City, November 30th, 2011

SUBJECT: ABOUT THE RECOURSE OF IMPUGNATION SUBMITTED BY V1

AUTHORITY RESPONSIBLE: MADAME PRESIDENT OF THE BOARD OF DIRECTORS OF THE HONORABLE CONGRESS OF THE STATE OF OAXACA'S LXI LEGISLATURE , MEMBERS OF THE HEROIC TOWN HALL OF SAN SEBASTIÁN TUTLA, OAXACA STATE

On April 6th 2005, V1 filed a labor lawsuit against the Town Hall of San Sebastián Tutla, Oaxaca at the Labor Tribunal for Government Employees of such state, thereby initiating file EL1, in which he condemned having been a victim of dismissal without cause. On June 9th 2006, the aforementioned state Tribunal issued an arbitration award through which it ordered the Town Hall of San Sebastián Tutla, Oaxaca to pay for various benefits such as compensation, overdue and withheld wages, holidays, holiday pay, yearend bonus and overtime, in favor of V1.

In spite of various attempts made through the state Labor Tribunal to enforce the award, the town hall issued various statements to avoid complying with the decision of the tribunal, claiming that it did not have the financial resources to do so given that it had requested the State Congress to provide them but it had refused. Moreover, the community board decided that V1 would not be compensated, adducing that this municipality is governed by local ways and traditions. As a result, the State Human Rights Commission of the Free and Sovereign State of Oaxaca determined that the rights to legality and legal certainty of the victim were violated to his detriment and therefore issued recommendation 17/2010 on May 21st 2010. It was addressed to the members of the Town Hall of San Sebastián Tutla, Oaxaca, who decided to reject it.

From the logical-legal analysis performed on the entirety of the evidence contained within the recourse of impugnation at hand, violations of the rights of V1 to legality, legal certainty and to the proper administration of justice were observed. These actions are attributable to the civil servants of the Town Hall of San Sebastián Tutla, Oaxaca, who affected V1 by not complying with the arbitration award issued by the Labor Tribunal for Government Employees of such state on June 9th 2006. In light of these events, the Mexican National Human Rights Commission has decided to issue the following **Recommendations:**

To you, Madame Deputy and President of the Board of Directors of the Honorable Congress of the state of Oaxaca's LXI Legislature:

Sole Recommendation. Issue the necessary instructions for whomever it may concern to initiate an investigation to determine the responsibilities in which civil servants from the municipality of San Sebastián Tutla, Oaxaca may have incurred by refusing to comply with recommendation 17/2010, issued by the State Human Rights Commission of the Free and Sovereign State of Oaxaca. Proof of compliance must be sent to the National Commission.

To you, the members of the Town Hall of San Sebastián Tutla, Oaxaca:

First. Proceed to instruct whomever it may concern in order for recommendation 17/2010, issued by the State Human Rights Commission of the Free and Sovereign State of Oaxaca, to be accepted and complied with. Proof of compliance must be sent to the national commission.

Second. Order the designation of a specific budget allowance within the Expenditure Budget project of the municipality of San Sebastián Tutla, Oaxaca in order to cover the payments derived from the enforcement of the arbitration awards issued by the corresponding authorities.

Third. Order the design and execution of a permanent training program on traditional regulatory systems as well as on those ruled by local ways and traditions, to which municipal civil servants and community authorities must be subjected to. This must be done in accordance with the general principles of the Political Constitution of the United Mexican States and with respect towards human rights. Proof of compliance must be sent to the National Commission.