

Caso Trabajadores Cesados De Petroperú y Otros vs. Perú

I. CASE

Caso Trabajadores Cesados De Petroperú y Otros vs. Perú, Sentencia de 23 de Noviembre de 2017

II. JURISDICTION

Inter-American Court of Human Rights

III. THEMATIC FOCUS

- Affirmative duties of the State
- Right to work
- Right to judicial protection
- Progressive rights

IV. NATURE & CONTEXT OF THE CASE

1. Procedural History

Between 1998 and 2002, the Inter-american Commission received four separate petitions from groups of workers who believed they had been illegally discharged: 25 workers of the National Ports Company of S.A. (1998), 85 workers represented by the Union of Oil Tanker Workers (1996), 39 workers of the Ministry of Education (2000), and 14 workers from the Ministry of Economy and Finance (2002). The Commission consolidated these four petitions and concluded that the state had violated the rights protected by articles 8.1 and 25.1 of the American Convention. The IACHR submitted the case to the Inter-American Court of Human Rights.

2. Parties

Discharged workers of four separate classifications (see above) v. the State of Peru

3. Date

November 23, 2017

V. SUMMARY OF THE CASE

1. Background and summary of the facts

This case addressed appeals filed by 164 workers from four different companies to dispute their dismissals (occurring between 1996 and 1998) resulting from personnel evaluation programs.

The Court found that the Peruvian state violated the workers' rights to access to justice--

specifically, their right to judicial guarantees and judicial protection, for failing to provide effective judicial remedies to verify whether their labor rights had been violated.

2. Core issue(s)

Whether the State is obligated to provide judicial remedies for the violation of labor rights.

3. What was the decision? Holding & Outline of the Court's Decision

- Court found violations of Articles 8.1 and 25 of the American Convention on Human Rights (regarding judicial guarantees and judicial protection), by failing to provide adequate processes by which the workers could claim violations of their rights, thereby denying them access to justice.
- Under Article 26, the state violated its obligation of progressivity by denying workers and their dependents the right to social security payments guaranteed by Article 45 of the OAS Charter. (p. 49, #134)
- Court ordered compensation to workers for pension contributions, loss of earnings, and non-pecuniary damages. State ordered to pay all legal expenses, as well as to reimburse the Legal Assistance Fund for Victims.

4. Key Points

- As affirmed in Lagos del Campo v. Peru, the IACHR is competent to hear and resolve disputes relating to Article 26 (progressive development of rights) of the American Convention
- The right to work includes the right to guaranteed access to justice and effective judicial protection, both in the public and private spheres of labor relations.
- The arbitrary dismissal of the workers and non-reinstatement in their jobs resulted in the cessation of accumulation of their years of service for social security purposes, which prevented many from reaching retirement. (p. 49, #134)

5. What was the court's reasoning in reaching its decisions?

- Court based its decision in Article 63.1 of the American Convention, which obliges the state to provide remedies for the violation of rights protected by the Convention as well as injunctive relief to preclude future violations (p. 54 #141).
- As the workers did not know where they could or should go to claim the labor rights they believed had been violated, the Court determined that existing domestic remedies were ineffective, individually or jointly, for the purpose of adequately guaranteeing the right of access to justice, and thus the State violated Articles 8.1 and 25 of the Convention. (p. 55 #142)

6. What evidence did the court use to substantiate its decision on issues related to resources?

- Court thoroughly analyzes whether petitioners exhausted domestic remedies (used all resources available within Peru before petitioning the Inter-american System--which the Inter-American Court requires) and concluded that that possible judicial remedies for labor rights violations in Peru were insufficient. Victim and witness statements, judicial records from previous proceedings, other documentation informed this decision. (p. 28 #73)
- Court does not explicitly reference state's use of maximum available resources but implies in ruling against the state that the state possessed adequate resources to provide judicial remedies, yet failed to do so.

7. Relevant national/international norms in which the decision was based.

- Articles 8.1, 25, 26, and 63.1 of the American Convention

8. Cited Case Law

- Cfr. Caso de Personas dominicanas y haitianas expulsadas Vs. República Dominicana. Excepciones Preliminares, Fondo, Reparaciones y Costas. Sentencia de 28 de agosto de 2014.
- Cfr. Caso Brewer Carías Vs. Venezuela. Excepciones Preliminares. Sentencia de 26 de mayo de 2014.
- Cfr. Caso Furlan y Familiares Vs. Argentina. Excepciones Preliminares, Fondo, Reparaciones y Costas. Sentencia de 31 de agosto de 2012 Serie C No. 246