

12-9-2009

Supreme Court Declines To Review Complaint That Shutdown Of Electrical Utility Violated Union Rights

LADB Staff

Follow this and additional works at: <https://digitalrepository.unm.edu/sourcemex>

Recommended Citation

LADB Staff. "Supreme Court Declines To Review Complaint That Shutdown Of Electrical Utility Violated Union Rights." (2009). <https://digitalrepository.unm.edu/sourcemex/5358>

This Article is brought to you for free and open access by the Latin America Digital Beat (LADB) at UNM Digital Repository. It has been accepted for inclusion in SourceMex by an authorized administrator of UNM Digital Repository. For more information, please contact amywinter@unm.edu.

Supreme Court Declines To Review Complaint That Shutdown Of Electrical Utility Violated Union Rights

by LADB Staff

Category/Department: Mexico

Published: 2009-12-09

The Sindicato Mexicano de Electricistas (SME), the union representing workers from the disappeared utility company Compania Luz y Fuerza del Centro (LFC), suffered a series of setbacks in its efforts to convince Mexico's high court (Suprema Corte de Justicia de la Nacion, SCJN) to reverse President Felipe Calderon's October decision to shut down the public utility. Calderon justified the decision by pointing to the LFC's serious financial troubles and extreme inefficiency.

The union, which has accused Calderon of violating workers' rights by shutting down the LFC, is now planning to take the case to the International Labor Organization (ILO) and other similar labor-rights groups. The SME held a large demonstration in Mexico City in early December, but the union appears to be having trouble swaying public opinion to its side.

SCJN denies motion from Mexico City legislature

In announcing the decision to shut down the LFC, Calderon cited a provision in the Mexican Constitution that allows the executive to close unprofitable state-run enterprises (SourceMex, October 21, 2009). The SME countered with its own constitutional arguments, saying the action violated labor guarantees and the right of unions to make independent decisions. The SME pushed to bring the case to the SCJN through its allies from the center-left parties in the Mexico City legislature (Asamblea Legislativa del Distrito Federal, ALDF) and the Mexican Congress. The first attempt to convince the SCJN to hear the case came in early November, when the ALDF, which is dominated by the center-left Partido de la Revolucion Democratica (PRD), and the community of Tetepango in Hidalgo state filed a motion before the court. The two entities argued that the federal action to shut down the utility violated their sovereign right to make decisions on behalf of their residents.

Justice Jose Ramon Cossio, who was assigned to review the case, determined that the complaint did not qualify for a constitutional review. He said there was no indication that Calderon's decree to shut down the LFC prevented the two local governments from exercising their duties and therefore did not meet the conditions required for the court to make a full review of the case. The SME then turned to Chief Justice Guillermo Ortiz Mayagoitia, requesting that the high court create a special commission to investigate the matter. Ortiz rejected the request in mid-November, saying that, under the Constitution, only the president, the Congress, and the nation's governors can request creation of such a commission.

Lack of support dooms effort in Congress

The final effort to bring the case before the court died in the Mexican Congress after center-left legislators were unable to obtain the necessary signatures on a petition to have the Congress request

that the SCJN take on this issue. Proponents were able to gather only 55 signatures, far short of the required 250 needed to bring the matter for a vote in the full chamber. Proponents of the effort were facing a tight deadline, since any requests from Congress for a court review had to be filed by Nov. 24.

The effort was doomed from the beginning, with the governing Partido Accion Nacional (PAN) and the opposition Partido Revolucionario Institucional (PRI), which has a plurality in the Chamber of Deputies, opposing the move. The two parties were joined by their allies, the Partido Verde Ecologista Mexicano (PVEM) and the Partido Nueva Alianza (PANAL). The PRD and its allies, the Partido del Trabajo (PT) and Partido Convergencia por la Democracia (PCD), had hoped to convince enough PRI deputies who are affiliated with agricultural and labor unions to sign the petition. This effort failed because most of these deputies in the end heeded recommendations of their leadership. Proponents said that they were able to convince some PRI members to sign the petition at the deadline and that the total number would have been 132 instead of 55. But that still fell short of the necessary 250. There was also very little support in the Senate for a move to bring the matter to the court. There was not even a vote or an effort to gather signatures in the upper house.

PRI Sen. Francisco Labastida, who chairs the energy committee (Comision de Energeticos), told reporters that the majority of senators "do not feel that the chamber should become involved in this legal discussion." Still, some proponents held out hope that the matter could be brought to the high court eventually. PRD Deputy Francisco Hernandez Juarez, who is also a leader with the independent labor organization Union Nacional de Trabajadores (UNT), described the failed effort to gather enough signatures in the lower house as "a loss in round one." Legal experts also see some possibility that the court could take up the matter.

In an interview with the Mexico City daily newspaper La Jornada, constitutional expert and author Elisur Arteaga said one SCJN member, Justice Fernando Franco Gonzalez Salas, has taken an interest in the case brought by the ALDF and the community of Tetepango. If Justice Gonzalez Salas decides to take action on the case, then he could request a special SCJN review of the case sometime in 2010.

Union fails in effort to call nationwide strike

The SME has organized some demonstrations primarily in states that had been served by LFC. Actions have included a temporary takeover of electrical facilities, a series of hunger strikes, a large demonstration in Mexico City's Zocalo square in mid-November, and a massive march in Mexico City in early December. At first, the union garnered some sympathy from other unions and civil groups. "The social movement that has arisen against the decree to eliminate the LFC has attracted enough of a groundswell to turn into a nationwide strike," La Jornada said in mid-November, and it noted strong discontent with Labor Secretary Javier Lozano Alarcon. But the noisy demonstrations and protests have failed to garner enough support from workers around the country to join a nationwide strike. Many unions that have traditionally been affiliated with the PRI are reluctant to take this step. "It doesn't appear to me that they are going to meet this goal, to gain nationwide sympathy," said Lozano Alarcon. Some observers say the general public does not support this action because the SME under the leadership of Martin Esparza is viewed as extremely corrupt.

Among those who have denounced the SME leader for massive corruption is former union treasurer Alejandro Munoz, who lost a disputed election in July to Esparza. Munoz said the election was rigged because the number of votes received by Esparza was larger than the number of union members qualified to participate in the election. In early December, the Junta Federal de Conciliacion y Arbitraje (JFCA), the mediating arm of the Secretaria del Trabajo y Prevision Social (STPS), agreed that there was enough evidence to declare the July SME election a fraud. This opened the door for the government to withdraw official recognition of the SME leader. Esparza said he was not surprised by this verdict, adding that the government was out to get him. Still, Esparza appears to be losing the battle with the government.

A large percentage of workers who lost their jobs after the LFC was disbanded have agreed to take severance pay from the government despite an appeal from union leaders to reject the compensation. Lozano Alarcon said more than 27,000 SME members have accepted a severance package. Several thousand other former LFC employees are scheduled to go back to work at their old plants, which are now managed by the Comision Federal de Electricidad (CFE). These workers will be offered the opportunity to join the Sindicato Unico de Trabajadores Electricistas de la Republica Mexicana (SUTERM), which represents workers at CFE facilities. Still, the SME has managed to obtain support from labor organizations outside of Mexico. The union has taken its case to the ILO in Geneva and other international labor organizations.

Additionally, Canadian and US organizations like the Canadian Labor Congress (CLC), the United Steel Workers (USW), and the AFL-CIO have offered their support. Representatives from these organizations traveled to Mexico to express their solidarity with the SME. They argued that eliminating the LFC, which resulted in the loss of 44,000 jobs, violated the North American Free Trade Agreement (NAFTA). Representatives from SEGOB and the SME have in the meantime agreed to meet in mid-December to discuss some of the union's grievances. Esparza has also requested that a special commission be formed to mediate between the government and the union. The commission would include the presidents of the Universidad Nacional Autonoma de Mexico (UNAM), the Instituto Politecnico Nacional (IPN), and the Senate coordinators of the PRD, PRI, and PAN.

-- End --