

Ruling number 229/2019 of the Contentious Administrative Court number 3 of Palma de Mallorca, dated 2 September 2019, rejected claims from the UGT that the Consell de Formentera infringed on islanders' fundamental right to associate with trade unions.

The ruling states no attempt was made by the Consell "to impede or object to Señor Mateos' fulfilment of his duties as a union affiliate". Hence, the end of Mateos' temporary assignment was not related to his union activities, rather to the fact he didn't meet terms of a job pool.

Namely, the plaintiff neglected to report for duty during a three-month trial period, claiming secondment to a trade union—unaware that the tenth term of his employment conditions stipulated that only when the trial period elapsed would his hire be complete.

The court censures the plaintiff for "not appearing for work although the employment in question figured on a list of temporary positions that were particularly important and pressing". According to the ruling, "the plaintiff arguably misrepresented himself and violated articles 6.4 and 7 of the Spanish Civil Code".

Appeal

Besides throwing out the plaintiff's claim that his fundamental freedom to associate with a union was infringed upon, the ruling makes clear that his right to effective legal protection was upheld.

The court found that one fundamental right of the claimant which was infringed upon was equal access to public employment. This rendered Mateo's termination as a temporary civil servant null and void.

The court reasoned that "a decision of this nature should only have come after the corresponding procedure was followed". In that case, and in presence of the plaintiff, the defendant could have "determined whether application of the condition in question was appropriate".

The Consell de Formentera did not pursue any meetings of the sort with the plaintiff, deeming such action incompatible with case law established under ruling 37/2017. That ruling calls for the strict application of any terms concerning discretion.

Consell legal services are looking into presenting an appeal before the High Court of Justice of the Balearic Islands (TSJIB) to revalidate the plaintiff's termination and reject his claims entirely.

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Department of Communication
Consell de Formentera