

CASE LAW DRAFT NO. 20/2024

On Determining Jurisdiction for Labor Disputes

Approved by the Judges' Council of the Supreme People's Court on [date] [month] 2024 and published under Decision No. [number]/QĐ-CA on [date] [month] 2024 by the Chief Justice of the Supreme People's Court.

Source of the Case Law:

The Cassation Decision No. 03/2023/LĐ-GĐT dated March 10th, 2023, by the High People's Court in Hồ Chí Minh City concerning the case "Dispute over labor discipline and termination of labor contracts" between the plaintiff Mr. Võ Hiếu N and the defendant, the Medical Center of A District, Vĩnh Long Province.

Location of the Case Law's Content:

Paragraphs 1 and 2 of the "Court's Opinion" section.

Summary of the Case Law:

- Factual Background:

A public employee signed an indefinite-term labor contract. The public employee then submitted a resignation letter, but the head of the public non-business unit did not address it and instead issued a disciplinary decision against the employee. The employee filed a lawsuit requesting the resolution of the resignation letter and the annulment of the aforementioned disciplinary decision.

- Legal Resolution:

In this situation, the Court must determine this as an individual labor dispute between the employee and the employer, which falls under the jurisdiction of the Court.

Relevant Legal Provisions:

- Clause 3 of Article 28, Article 30, Clause 6 of Article 56 of the Law on Public Employees 2010;
- Point a, Clause 1 of Article 179 of the Labor Code 2019;
- Article 186 of the Civil Procedure Code 2015.

Keywords:

"Public employee"; "Indefinite-term contract"; "Request to annul disciplinary decision"; "Jurisdiction of the Court."

CASE DETAILS

In the matter presented, the plaintiff, Mr. Võ Hiếu N, submitted his lawsuit with the following details:

Mr. Võ Hiếu N has been employed as a public employee under an indefinite-term contract with the Medical Center of A District, Vĩnh Long Province (hereinafter referred to as the Medical Center) since February 1st, 2012. This employment was confirmed by Decision No. 406/QĐ SYT dated April 19th, 2012, which recognized the completion of his probation period, and by Decision No. 1296/QĐ-SYT dated August 2nd, 2019, which accepted him as a public employee following his university graduation, issued by the Department of Health of Vĩnh Long Province. On January 29th, 2021, Mr. N submitted his resignation due to personal reasons.

Commencing March 31st, 2021, Mr. N ceased reporting to work. In response, the Medical Center issued six written notifications requesting his return, which Mr. N failed to address. Consequently, the Medical Center issued Decision No. 482/QĐ-TTYT dated May 20th, 2021, imposing a reprimand on Mr. N, and Decision No. 1245/QĐ-TTYT dated December 13th, 2021, which constituted a formal warning.

On December 15th, 2021, Mr. N lodged a complaint with the Director of the Medical Center concerning the unresolved resignation and the disciplinary decisions issued against him. Following this, on December 23rd, 2021, the Medical Center issued Notification No. 1327/TB-TTYT, stating that it would not address Mr. N's complaint, as the matter was outside the unit's jurisdiction. The Medical Center reported Mr. N's resignation and disciplinary actions to the Department of Health for further review.

Subsequently, on January 10th, 2022, Mr. N filed a second complaint with the Director of the Department of Health of Vĩnh Long Province. On February 17th, 2022, the Medical Center of A District issued Decision No. 258/QĐ-TTYT, which resolved Mr. N's initial complaint by rejecting it.

In his lawsuit, Mr. N requested the annulment of all Notifications and Decisions related to his discipline issued by the Medical Center of A District. Specifically, he sought the nullification of Notification No. 483/TB-TTYT dated May 20th, 2021, Decision No. 482/QĐ-TTYT dated May 20th, 2021, which imposed a reprimand, and Decision No. 1245/QĐ-TTYT dated December 13th, 2021, which issued a warning.

Furthermore, Mr. N requested that the Medical Center process his resignation letter by issuing a formal resignation decision, finalizing his social insurance, and withdrawing his registration file for practicing medical examination and treatment.

The defendant, the Medical Center of A District, presented its position as follows:

The Medical Center of A District contended that it had issued the disciplinary decisions against Mr. Võ Hiếu N in accordance with established procedures and regulations. The Center highlighted that Mr. N had not fulfilled the required time commitment related to his training application. The Medical Center stated that while it would eventually process Mr. N's resignation, it was

not prepared to do so at the present time.

The Department of Health of Vĩnh Long Province, as an interested party, concurred with the Medical Center's stance. The Department affirmed that, per regulations, Mr. N was obligated to continue working at the Medical Center as initially committed. His resignation would be processed only after the Center had arranged for new personnel to take his place.

In Decision No. 01/2022/QĐST-LĐ dated August 1st, 2022, the People's Court of Bình Tân District, Vĩnh Long Province ruled to suspend the resolution of the case titled "Dispute over labor discipline and termination of labor contracts" involving the plaintiff Mr. Võ Hiếu N and the defendant Medical Center of A District.

The court's decision on suspension indicated that the parties were not entitled to file a new lawsuit to seek further resolution from the Court. Additionally, the first-instance decision addressed court fees and the right to appeal.

On August 8th, 2022, Mr. N filed an appeal requesting the annulment of the first-instance decision.

In Decision No. 01/2022/QĐ-PT dated September 14th, 2022, the People's Court of Vĩnh Long Province dismissed Mr. N's appeal and upheld the first-instance decision.

Following this, on October 13th, 2022, Mr. Võ Hiếu N submitted a request for a cassation review of both the first-instance and appellate decisions.

In Decision No. 27/QĐ-VKS-LĐ dated January 6th, 2023, the Chief Procurator of the High People's Procuracy in Hồ Chí Minh City petitioned for a cassation review of the appellate decision. The Chief Procurator requested that the High People's Court in Hồ Chí Minh City annul the appellate decision No. 01/2022/QĐ-PT dated September 14th, 2022, of the People's Court of Vĩnh

Long Province, as well as the Decision to suspend the case resolution No. 01/2022/QĐST-LĐ dated August 1st, 2022, of the People's Court of Bình Tân District, and to remand the case for retrial under first-instance procedures.

At today's court hearing, the representative of the High People's Procuracy in Hồ Chí Minh City proposed that the Judges' Council accept the Chief Procurator's petition.

COURT'S OPINION:

[1] Mr. Võ Hiếu N has been employed as a public employee under an indefinite-term contract with the Medical Center of A District, Vĩnh Long Province since February 1st, 2012. Following Mr. N's submission of a resignation letter, the Medical Center did not address the resignation but instead issued disciplinary decisions against him. Mr. N subsequently filed a lawsuit seeking the annulment of these disciplinary decisions and requesting that the Medical Center process his resignation letter. His specific requests included the issuance of a formal resignation decision, the finalization of his social insurance, and the withdrawal of his registration file for practicing medical examination and treatment. According to Articles 28 and 30 of the Law on Public Employees 2010 and Point a, Clause 1 of Article 179 of the Labor Code 2019, this matter constitutes an individual labor dispute between the employee and the employer.

[2] Clause 6 of Article 56 of the Law on Public Employees 2010 provides that "A public employee subject to disciplinary action, temporary suspension, or required to compensate or reimburse according to the decision of the public non-business unit, if found unsatisfactory, has the right to file a complaint, lawsuit, or request for resolution as prescribed by law." Therefore, Mr. Võ Hiếu N's lawsuit requesting the annulment of the notifications and decisions related to his discipline issued by the Medical Center is consistent with Article 186 of the Civil Procedure Code. The decision by the first-instance and appellate courts to suspend the case resolution on the grounds that the plaintiff's claim

did not constitute a labor dispute, and thus fell outside the court's jurisdiction, is inconsistent with legal regulations.

IT IS DECIDED:

Pursuant to Articles 325, 334, 337, 342, 343, 348, and 349 of the Civil Procedure Code 2015:

1. The Protest No. 27/QĐ-VKS-LĐ dated January 6th, 2023, submitted by the Chief Procurator of the High People's Procuracy in Hồ Chí Minh City, is accepted.

2. The Decision on the appeal settlement regarding the decision to suspend the case No. 01/2022/QĐ-PT dated September 14th, 2022, of the People's Court of Vĩnh Long Province is annulled. Additionally, the Decision to suspend the case No. 01/2022/QĐST-LĐ dated August 1st, 2022, of the People's Court of Bình Tân District, Vĩnh Long Province is also annulled. The case file is to be remanded to the People's Court of Bình Tân District, Vĩnh Long Province for retrial under first-instance procedures.

3. This cassation decision shall take legal effect from the date of its issuance.

CONTENT OF THE CASE LAW:

“[1] Mr. Võ Hiếu N has been employed as a public employee under an indefinite-term contract with the Medical Center of A District, Vĩnh Long Province since February 1st, 2012. Following Mr. N's submission of a resignation letter, the Medical Center did not address the resignation but instead issued disciplinary decisions against him. Mr. N subsequently filed a lawsuit seeking the annulment of these disciplinary decisions and requesting that the Medical Center process his resignation letter. His specific requests included the issuance of a formal resignation decision, the finalization of his social insurance, and the withdrawal of his registration file for practicing

medical examination and treatment. According to Articles 28 and 30 of the Law on Public Employees 2010 and Point a, Clause 1 of Article 179 of the Labor Code 2019, this matter constitutes an individual labor dispute between the employee and the employer.”

THE RATIONALE FOR THE CASE LAW DRAFT’S PROPOSAL

In cases involving labor disputes where the employee is a public employee, courts frequently err by determining that such cases do not qualify as labor disputes, thereby falling outside their jurisdiction. This often results in the suspension of the case and the denial of the plaintiff’s right to pursue legal redress.

In the cassation decision referenced, the employee, a public servant, had submitted a resignation letter which was not addressed by the head of the public non-business unit. Instead, the unit issued disciplinary decisions against the employee. The employee sought a resolution of the resignation letter and the annulment of the disciplinary decisions through legal action. The first-instance and appellate courts suspended the case, incorrectly categorizing it as not a labor dispute and thus outside their jurisdiction.

The Judges’ Committee of the High People’s Court in Hồ Chí Minh City determined that this matter indeed constitutes a labor dispute within the court’s jurisdiction, supported by compelling legal grounds. It is thus deemed necessary to develop and establish a precedent based on this cassation decision. This will guide courts in uniformly applying the law in similar cases, ensuring consistent and correct adjudication.