94 Phil. 509

[G.R. No. L-6158. March 11, 1954]

CEBU PORTLAND CEMENT COMPANY, PETITIONER VS. THE COURT OF INDUSTRIAL RELATIONS (CIR) AND PHILIPPINE LAND-AIR-SEA LABOR UNION (PLASLU), RESPONDENTS.

D E C I S I O N

LABRADOR, J.:

This is an appeal by certiorari from a decision of the Court of Industrial Relations ordering the petitioner Cebu Portland Cement Company to reinstate Felix V. Valencia to his former position as general superintendent of the respondent, with full back pay at P1000 a month from November 15, 1950, up to his reinstatement and the differential salary collectible from May 1, 1949 up to November 16, 1950, with all the privileges and emoluments attached to said position.

The record discloses that on December 31, 1948 respondent Philippine Land-Air-Sea Labor Union (PLASLU) filed a petition with the Court of Industrial Relations, docketed as CIR Case No. 341-V and entitled Philippine Land-Air- Sea Labor Union vs. Cebu Portland Cement Company, submitting a set of grievances and demands against the therein respondent, herein petitioner, for decision and settlement by said court While the said case was pending and on November 20, 1950, said PLASLU filed an incidental motion in the said case, alleging that respondent herein Felix V. Valencia was dismissed without just cause on November 16, 1950 and praying that he be reinstated with an answer denying that Valencia was dismissed without cause and alleging that he was retired from the service together with 100 other employees and/or laborers to promote economy and efficiency in the service in accordance with the order of the Secretary of Economic Coordination. In that same

answer the cement company questioned the PLASLU's juridical personality as a labor union, as well as the jurisdiction of the CIR to take cognizance of the incidental case. After hearing the merits of the incidental case the Court of Industrial Relations rendered the decision appealed from. After a motion for reconsideration filed by the cement company was denied *in banc*, it filed the present action for certiorari alleging that (*a*) the CIR has no power to take cognizance of the incidental case of Valencia, firstly, because the PLASLU's license as a registered labor union was revoked by the Secretary of Labor on August 25, 1950, and secondly, because the subject-matter involved in the said incidental case is not an industrial or agricultural dispute related to the main case, Valencia belonging to the management group of the petitioner company; (*b*) that the court had no power and acted with grave abuse of discretion, firstly, because it did not state correctly the facts appearing on record; secondly, because it disregarded the essential requirements of due process; thirdly, because it did not weigh the evidence submitted by the petitioner herein before promulgating its decision; fourthly, because it had no jurisdiction to consider the claim of a Filipino citizen in the service of a government-controlled corporation, etc.

The facts giving rise to the incidental case filed by Valencia against the Cebu Portland Cement Company may be briefly stated as follows: On or before November 10, 1950, Felix V. Valencia was a general superintendent of the company with a salary of P12,000 per annum. He first served with the Cebu Portland Cement Company as assistant general superintendent from July, 1939 with a salary of P7,200 per annum. In November, 1947, on recommendation of the general manager, he was promoted to the position of general superintendent with compensation at the rate of P9,600 per annum. On May 1, 1949, he got a promotional appointment with a compensation of P12,000 per annum. On October 7, October 21, and October 23, the Secretary of Economic Coordination ordered the general manager of the Cebu Portland Cement Company to take steps to secure a reduction in the expenses of the company, in order to enable it to produce cement at a lower cost and thus reduce its price for the benefit of the public. Pursuant to this

order the manager proposed that the annual salary of the general superintendent of the plant be reduced to P10,800 and recommended that Valencia be retired for the good of the service and the assistant general superintendent take his place as general superintendent. The Secretary of Economic Coordination approved the proposal and recommendation and ordered the retirement of Mr. Valencia effective November 16, 1950. Valencia refused to retire as ordered and so filed the incidental case.

One of the most important questions raised in this appeal is the supposed lack of jurisdiction on the part of the Court of Industrial Relations to consider the incidental case of respondent Valencia, for the reason that when his claim was presented before the court on November 16, 1950 the Philippine Land-Air-Sea Labor Union, to which he belonged, had no longer any personality before the said court, because its permit to continue as a labor organization had already expired and the same was not renewed by the Secretary of Labor. In the first place, it must be remembered that the registration required by Commonwealth Act No. 103 is not a prerequisite to the right of a labor organization to appear and litigate a case before the Court of Industrial Relations. (Kapisanan Timbulan ng mga Manggagawa, 44 Off. Gaz., (1), pp. 182, 184-185.) In the second place, once the Court of Industrial Relations has acquired jurisdiction over a case under the law of its creation, it retains that jurisdiction until the case is completely decided, including all the incidents related thereto. (Manila Hotel Employees Association *vs*. Manila Hotel Company and the Court of Industrial Relations[1] 73 Phil., 374; Mortera, et al. *vs*. Court of Industrial Relations,[2] 45 Off. Gaz., (4), p. 1714; and Luzon Brokerage Company *vs*. Luzon Labor Union,[3] 48 Off. Gaz., (9), p. 3883.

It is also claimed that the Court of Industrial Relations has no jurisdiction over the case of the dismissal or separation of Valencia, because the dispute involved between him and the Cebu Portland Cement Company is not an industrial dispute which is causing or likely to cause a strike or a lockout, and the number of employees or laborers involved does not exceed 30. In answer to this contention it must be noted that the original case was instituted by the Philippine Land-Air-Sea Labor Union (PLASLU) and the circumstances required by law

for the case to be submitted to the Court of Industrial Relations, as required by section 4 of Commonwealth Act No. 103, were then present. While this original action was pending, the incidental case of Valencia, a member of the PLASLU, arose and the power of the court to take cognizance thereof is recognized in Section 1 of said Commonwealth Act No. 103 as a dismissal of an employee during the pendency of the proceedings in the original case.

It is also contended that the position of general superintendent held by Valencia, which is, next in importance to that of general manager with respect to the operation of the company's plant, is not that of an employee, as Valencia represented the management of the company and his dismissal was a case involving a member of the management and not an employee, and, therefore, not an industrial dispute. In a general sense an "employee" is one who renders service for another for wages or salary, and that in this sense a person employed to superintend, with power to employ and discharge men and generally to represent the principal is an 'employee.'" (Shields vs. W. R. Grace & Co., 179 p. 265, 271, quoted in 14 Words and Phrases 360.) It is true that in the case between the PLASLU and the Cebu Portland Cement Company, Valencia actually represented the management in the dispute arising between the Cebu Portland Cement Company, employer, and the union of the laborers, employees. But in the incidental case at bar, we are not concerned with said relation between the PLASLU and the Cebu Portland Cement Company, but we are with that of Valencia, employee, on one side, as against the Cebu Portland Cement Company, employer, on the other. It has been said that while a superintendent who has the power to appoint and discharge may be considered as part of the management, in the dispute that arises between it and the laborers, said superintendent is an employee in his own relation to the capitalist or owner of the business, in this case, the Cebu Portland Cement Company.

> "A foreman in his. relation to his employer, is an employee, while in his relation to the laborers under him he is the representative of the employer and within the definition of section

> 2(2) of the Act. Nothing in the Act excepts foremen from its benefits nor from protection against discrimination nor unfair labor practices of the master. (NLRB vs. Skinner and Kennedy Stationary Co., 113 Fed. 2d., 667.)
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> "His interest properly may be adverse to that of the employer when it comes to fixing his own wages, hours, seniority rights or working conditions. He does not lose his right to serve himself in those respects because he serves his master in others. * * *." (330 U. S. 485.)

Valencia was, in the case of his dismissal by the Cebu Portland Cement Company, an employee not a part of the management, and his case properly falls under the category of an industrial dispute falling under the jurisdiction of the Court of Industrial Relations. And the fact that his position was among the highest in a government enterprise did not change the nature of his case or his relation to his employer.

Let us now consider the merits of the arguments submitted by petitioner in justification of Valencia's separation. It is claimed that this was made in the interest of economy and efficiency. There is no question that the position of general superintendent was not abolished; its salary was reduced only, from P12,000 to P10,800 per annum. That of assistant general superintendent, which carried a salary of P6,000 and which was held by one Ocampo, was suppressed. Instead of retiring Ocampo, whose position was abolished, Valencia was retired, even as his position was retained, and Ocampo promoted to take his (Valencia's) position. As Valencia's position was not abolished or suppressed, Valencia should not have been separated by retirement; it should have been Ocampo who should have been retired because of the abolition of his own position. Petitioner's argument in effect is as follows: that there is economy if Valencia is separated and Ocampo retained, but none if Ocampo, whose position is abolished, is retained and Valencia dismissed. The absurdity of the contention is evident; it is its own refutation. Reasons of economy may have justified the reduction of Valencia's salary, but certainly not his separation.

Evidently, the reduction was merely the opportune occasion for a dismissal without cause.

Was the dismissal in the interest of efficiency? The CIR found that Valencia's efficiency is shown by the greater amount of production obtained during his incumbency. Even the petitioner admits that there is no charge of inefficiency. (See Brief for the Petitioner, p. 89.) But the separation was recommended "for the good of the service," implying that there were valid reasons therefor. None appear in the record. On the other hand, the evidence submitted prove Valencia's efficiency. Even if there were reasons therefor, which were not disclosed, the separation would still be illegal because no charges of any kind whatsoever appear to have been filed against him and neither does any opportunity appear to have been given him to answer them or to defend himself against them.

The above considerations cover the most important points raised in this appeal; it would be unprofitable to answer all the other arguments, most of which are high-sounding claims without foundation in fact and in law. Suffice it for us to state that we have carefully examined the record and we find no reason or ground to disturb the findings of fact and conclusions of law contained in the judgment. The findings of fact are based on the testimonial and documentary evidence submitted. The claim that the facts appearing in the record are not stated, or that the requirements of due process of law have been ignored find no support in the record, it appearing that every opportunity was afforded petitioner to present its side.

The judgment is, therefore, hereby affirmed, with costs.

So ordered.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo and *Bautista Angelo, JJ.*, concur.

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[1] 73 Phil., 374. [2] 79 Phil., 345. [3] 83 Phil., 801.

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