96 Phil. 63

[G.R. No. L-6491. October 29, 1954]

LAKAS NG PAGKAKAISA SA PETER PAUL, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND PETER PAUL (PHILIPPINES) CORPORATION, RESPONDENTS.

D E C I S I O N

REYES, J.B.L., J.:

This is a petition filed by the labor union "Lakas ng Pagkakaisa sa Peter Paul" for the review of an order of the Court of Industrial Relations dismissing its petition (Case No. 405-V [3]) for the reinstatement of 58 of its members laid off by the respondent Peter Paul (Philippines) Corporation, and of the Court *a quo's* resolution *in banc* denying the petitioner Union's motion for reconsideration.

Said Case No. 405-V(3) arose as an off-shot of.C. I. R. Cases Nos. 405-V (1) and 405-V (2), wherein the respondent corporation was granted by the lower Court authority to lay off 319 of its employees and laborers because of the introduction of mechanical improvements in the corporation's factory and the decrease in the demand for its manufactured products, the corporation "to commence its lay-off effective upon receipt of the order authorizing the same". The petitioner union moved to reconsider the order on the ground that the conditions imposed therein were onerous and the number of the laborers authorized to be laid off was excessive; but before this motion was resolved, the respondent corporation had already served notice to 55 laborers that they would be laid off on September 3, 1950. The Union filed an urgent petition (case No. 405-V[3]) to enjoin the lay-off, but as no injunction was issued and the respondent company had actually dismissed 58 laborers, the petitioner union amended its petition,

praying for the reinstatement of the 55 laborers laid off by the company on September 3, 1950, and of 3 other employees (Antero Barrion, Florentino Bunga, and Norberto Hernandez) laid off on August 3, 1950. In the meantime, the lower Court, acting upon the union's motion to reconsider its order in Case No. 405-V (2) authorizing the lay-off, issued a resolution modifying said order by reducing the number of laborers authorized to be laid off to only 55 men.

Trial on the petition for reinstatement of the 58 laid off laborers and employees was then had, after which the Court *a quo* issued on September 27, 1952 an order dismissing the petition (Annex "E" of the Petition for Review). The Union moved for the reconsideration of the order, but said motion was, on October 14, 1952 (Annex "F" of this Petition) likewise denied by the lower Court *in banc* (with two Judges dissenting). The Union then appealed to this Court.

Two arguments are relied upon in support of the appeal, to wit:

> (1) That the respondent Court abused its discretion in ignoring oral and documentary evidence showing that the respondent corporation, after laying off 58 laborers, hired more "extras" and "helpers", which shows that the dis missal of said 58 men left a void which must be filled to supply normal labor requirements; and
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> (2) That the respondent Court erred in holding that Article 302 of the Code of Commerce, providing for the payment of one month's salary to employees who are dismissed without a month's notice, has been expressly repealed by the New Civil Code.

In disposing of the contention of the petitioner labor Union that the evidence showed that for the two months prior to the lay off on September 3, 1950, the respondent company hired 293 extra laborers, while two months after the lay-off, the company actually hired and employed 373 extras (or an increase of 80), this Court must abide by the finding of the majority of the Judges of the Court of Industrial

Relations that, on the basis of the evidence, the hiring of more extra employees after the lay-off was made only as an emergency measure to ensure continuity in the tasks of absent regular employees, so that said hiring of "extras" did not justify the reinstatement of the employees who had been laid off.

While the number of extras hired by the respondent company had increased after the lay-off, the respondent corporation has shown (without successful contradiction) that such increase was due to a corresponding increase in the absences of regular employees after the lay-off, that the corporation attributed to the fact that more employees did not report for work due to fear of violence in some form or another during the period immediately following the lay-off (t. s. n. pp. 111-114, July 11, 1951). However, the resolutions of the Court of Industrial Relations now under review make no mention of the established fact that, after the lay-off of the 58 laborers in September 3, 1950, the respondent company in April, 1951, adopted the practice of permitting its regular laborers to select and have "helpers" (other than extra workers previously mentioned) to assist in their work, although the Company delivered the corresponding compensation to the regular employees and left the sharing thereof entirely to them and their helpers, the latter not being carried in the Company payroll. This practice plainly reveals that the production needs of the respondent Company since April, 1951 required a higher number of laborers than that remaining in its employ after the lay-off subject of these proceedings, and supports the position of the petitioner Union that the dismissed laborers should be reinstated. One of the conditions expressly imposed by the respondent Court of Industrial Relations in its order of July 11, 1950, authorizing the lay-off of the laborers, was that-

> "In the event that the company needs more workers because of increased production, those laid off shall have first priority over a new man".

That the practice of allowing "helpers" for the regular laborers practically doubled the labor force of the Peter Paul Corporation is clear, and plainly violates the condition above quoted to the prejudice of the workers laid off, who had priority in reemployment rights. It is no answer that these "helpers" were not carried in the company's payroll, for that is too transparent an excuse to hide the fact that these helpers supplied the labor needs of the company to maintain or increase its production. To hold it as a valid excuse would enable the employer to disregard at will the reemployment conditions imposed upon and accepted by it.

The failure of the Court of Industrial Relations to consider the facts on record concerning these "helpers", is an infringement of cardinal primary rights of the petitioner, and justifies the interposition of the corrective powers of this Court (Ang Tibay *vs.* Court of Industrial Relations and National Labor Union, 69 Phil., 635).

> "(2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal *must consider* the evidence presented. (Chief Justice Hughes in Morgan *vs.* U. S. 298 U. S. 468, 56 S. Ct. 906, 80 Law Ed. 1288.) In the language of this Court in Edwards *vs.* McCoy, 22 Phil., 598, 'the right to adduce evidence, without the corresponding duty on the part of the board to consider it is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.'"

For the foregoing reasons, we find that the Court *a quo* abused its discretion in evaluating the evidence before it and in dismissing the union's petition for the reinstatement of its members laid off by the respondent Company.

The second question raised in this petition for review is the alleged erroneous conclusion of law made by the Court below that Art. 302 of the Code of Commerce has been expressly repealed by the New

Civil Code. We see no practical need to decide this question squarely, for the reason that even assuming that the New Civil Code has not repealed Art. 302 of the Code of Commerce, as insisted by the appellant Union, the 55 employees laid off by the respondent Company on September 3, 1950 would not be entitled to the payment of one month severance pay anyway, because the Court below expressly found that they were given one month's notice before they were dismissed, and Art. 302 of the Code of Commerce requires the payment of the *mesada* only to employees dismissed without such previous notice.

Now, with respect to the cases of Antero Barrion, Florentino Bunga, and Norberto Hernandez, who were dismissed on August 3, 1950 without one month's previous notice, their claims for separation pay were denied by the Court below on the ground that they were guilty of serious want of respect for and regard to their employer, on the basis of the following findings:

> "On August 2, 1950, Barrion, Bunga and Hernandez were asked by the factory manager to report to the personnel office of the Company. Three separate and consecutive notices were sent to these employees on that day through Anacleto Orioque, Shift foreman, Pastor Dalmacion, Mill Superintendent, and Federico Dioso, Personnel Supervisor (t. s. n. pp. 14-19, 30-33, February 19, 1952; pp. 32-34, March 5, 1952). Barrion, Bunga and Hernandez admitted they refused to report to the office although they were not advised at the time the reason they were asked to report (t. s. n. pp. 30-31, 45, 53, August 3, 1951). There is no showing that the order was for an unlawful purpose. Their refusal, therefore, was a serious want of respect and regard to their employer and a lawful ground for their immediate dismissal (Art. 300, par. 3, Code of Commerce; Puerto *vs.* Gregg Car Co., C. A.-G. R. No. 5620, September 30, 1940)."

We are constrained to disagree with the conclusion of the lower Court that the simple refusal of Barrion, Bunga and Hernandez to comply with three notices to report to the office of the respondent

corporation amounted to serious want of respect and regard for their employer. It should be borne in mind that the names of these employees were included in the general notice of the lay-off posted by the company on its bulletin board on August 3, 1950 (Exhibit 1-a); and it is quite likely that these employees did not report at the company's office as required because they suspected that they were to be interviewed only for the purpose of receiving verbal confirmation of the posted notice that they were to lose their jobs in a month's time. In the absence of showing that the employer had some other purpose in asking them to report, we do not think these employees are guilty of such want of respect for their employer as would warrant their summary and outright dismissal without the right to either 30 days notice or severance pay.

Wherefore, reversing the orders of the respondent Court of Industrial Relations dated September 27, 1952 as well as the confirmatory resolution *in banc* of December 5, 1952, in so far as material to this appeal, the respondent Peter Paul (Philippines) Corporation is ordered (1) to pay Antero Barrion, Florentino Bunga, and Norberto Hernandez severance pay equivalent to thirty days' wages; (2) to reinstate the 58 laborers laid off on September' 3, 1950, without back wages; and (3) to pay the costs of the proceedings.

Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, A., Bautista Angelo, and *Concepcion, JJ.,* concur.

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