102 Phil. 438

[G. R. No. L-10114. November 21, 1957]

BISAYA LAND TRANSPORTATION CO., INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND PHILIPPINE MARINE RADIO OFFICERS' ASSOCIATION, RESPONDENTS.

D E C I S I O N

LABRADOR, J.:

Appeal by certiorari instituted by petitioner against the decision of the Court of Industrial Relations in its case No. 4-IPA entitled the Philippine Marine Radio Officers' Association vs. Compafifa Maritima, et al.

This case is intimately related to G. R. No. L-10095 and G. R. No. L-10115, already resolved by Us in a decision promulgated last October 31, 1957. Insofar as this appeal is concerned, it appears that the PHILMAROA presented its demands for standardization and increase of salaries, sick and vacation leaves, hospitalization, and closed shop agreement on September 26, 1953. On October 24, 1953, notice of intention to strike was filed in the Conciliation Service Division of the Department of Labor against the petitioners herein. Pending the resolution of the dispute by the Court of Industrial Relations, by reason of the presidential certification to it of the said dispute, Benjamin Nadanza and Arcadio Ouano abandoned their ships, which belong to the petitioner, on November 30 and December 7, 1953, respectively. But some weeks thereafter said radio operators came back and, upon their request, were re-admited by the company. In the court below the petitioner herein alleged that the strike was unlawful because no notice of the strike was served directly to it. It was also contended that with the reinstatement of the radio operators there was no longer any cause of action against the Bisaya Land Transportation Co., petitioner herein. The court *a quo* held that the illegality of the strike was waived by the Bisaya Land Transportation Company when it accepted the striking radio operators. As to the absence of the cause of action against the petitioner herein, the court a quo held that this defense is good as against the reinstatement and backpay of the striking radio operators, but not as to the prosecution of the demands

contained in the original petition of the union.

On this appeal the petitioner assigns the following errors:

> "I. THE PETITIONER-UNION, NOW RESPONDENT, HAS NO CAUSE OF ACTION AGAINST THE BISAYA LAND TRANSPORTATION CO., INC.
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> "II. THE PETITIONER-UNION BEING ONLY A CRAFT UNION HAS NO RIGHT OR POWER TO BARGAIN COLLECTIVELY.
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> "III. THE PETITIONER-UNION HAS NO RIGHT OR POWER TO BARGAIN COLLECTIVELY FOR RADIO OPERATORS NADANZA AND OUANO AS BOTH OF THEM ARE AFFILIATED WITH ANOTHER LOCAL LABOR UNION IN CEBU, THE PHILIPPINE MARINE & SHIPPING EMPLOYEES ASSOCIATION (PHILMASEA), WITH WHICH THE GREAT MAJORITY OP THE EMPLOYEES OF THE BISAYA LAND TRANSPORTATION CO., INC. ARE AFFILIATED.
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> "IV. THE STRIKE OR ABANDONING OF THEIR POSTS BY THE RADIO OPERATORS WAS NOT LEGAL.
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> "V. THE CERTIFICATION OF THE CASE TO THE C.I.R. BY THE PRESIDENT OP THE PHILIPPINES WAS NULL AND VOID.
>
> "VI. THE COURT OF INDUSTRIAL RELATIONS HAD NO JURISDICTION OVER THE CASE."

In support of the first assignment of error, it is claimed that when the radio operators employed by the petitioner went back to work and the latter reinstated them, the parties thereby waived any of the grounds that they may have had for striking. There is absolutely no merit in this contention. The strike in this ease was adopted by the union to compel the respondent shipping company to accede to its demands. The strike was but one of the means employed to achieve its ends. When the radio officers returned back to work after the strike, such return did not imply the waiver of the original demands. The fact that the radio operators returned back to work and ended their strike only meant that they desisted from the strike; such desistance is a personal act of the strikers, and cannot be used against the union and interpreted as a waiver by it of its original demands for which the strike was adopted as weapon.

The second assignment of error is also without merit as held by the court below. A union craft, such as the one to which the radio operators belonged, is expressly recognized in the Industrial Peace Act (Sec. 9 [f], pars. 1 & 2 Rep. Act No. 875) and its right and power to bargain collectively is recognized.

In third assignment of error it is claimed that the PHILMAROA has no right to bargain collectively for the radio operators employed by the petitioner Bisaya Land Transportation Company, because these radio operators are affiliated with another local union to which union most of empployees of the petitioner union are affiliated. This contention is also without merit. The PHILMAROA acted as representatives of the radio operators Nadanza and Ouano, as radio operators, not as mere employees of the Visaya Land Transportation Company. There is no prohibition in the law against employees affiliating with a craft union as well as with an ordinary labor union. As the PHILMAROA represented the interest of Nadanza and Ouano as radio operators, said union was fully competent to represent them in the proceedings in said capacity.

In the fourth assignment of error it is claimed that the strike was illegal. Admitting for the' sake of argument that the strike was illegal for being premature, this defense was waived by the Bisaya Land Transportation Company when it voluntarily agreed to reinstate the radio operators.

The fifth assignment of error refers to the supposed invalidity of the presidential certification of the case to the Court of Industrial Relations. It is argued that the real purpose of certification is to avoid or prevent strikes and lockouts, but that since the strike in this case occurred before the certification, the latter was null and void. There is no reason or ground for the contention that presidential certification is limited to the prevention of strikes and lockouts. Even after a strike has been declared, where the President believes that public interest demands arbitration and conciliation, the President may certify the case for that purpose. The practice has been for the Court of Industrial Relations to order the strikers to return to work, pending final determination of the union demands that impelled the strike. There is nothing in the law to indicate that the practice is abolished.

The last assignment of error is so clearly unfounded as to deserve no consideration on Our part other than a statement that it is without merit.

The petition is hereby denied and the resolution appealed from, affirmed. With costs against petitioner.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A. Bautista Angelo, Concepcion, Reyes, J. B. L., Endencia, and *Felix, JJ.,* concur.

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