

RUPERTO SANCHEZ, DOING BUSINESS UNDER THE NAME AND STYLE OF PRESERVER SHOE COMPANY AND MODESTO SANCHEZ, PETITIONERS, VS. THE COURT OF INDUSTRIAL RELATIONS, PRESERVER SHOE WORKER...

G.R. No. L-26932. March 28, 1969

Ponente: FERNANDO, J.

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FERNANDO, J.:

In line with the statutory mandate that once an unfair labor practice was shown to have been indulged in, there should be reinstatement with back pay of the aggrieved employees,[1] petitioners were required by our ruling in the parent case,[2] affirming a decision of the respondent Court of Industrial Relations, to reinstate the workers mentioned in the petition therein filed and the payment to them of their back wages from May 18, 1958, until the date of compliance therewith. Our decision having become final, the respondent Court of Industrial Relations took the necessary steps for the enforcement thereof, the order for reinstatement, however, remaining ineffectual due to the fact that as of November 2, 1963, petitioners' business firm, the Preserver Shoe Company, had ceased to operate. Back pay in the amount of P49,774.11 was actually paid though to the employees in question except for ten persons who, as admitted in the petition, "could not be included in the computation because their names did not appear in the payrolls and time cards examined." [3]

The present incident deals with the right, if any, of such individuals to the back pay and the amount thereof. According to the petition, on December 7, 1965, these ten, originally excluded for the reason above set forth, filed with the respondent Court of Industrial Relations a motion seeking the issuance of an order directing its Examining Division to compute their back wages from May 18, 1958.[4]

It was then alleged that at the time of the hearing of such motion on January 25, 1966, petitioners made of record their opposition on the ground that there had been full compliance with the original decision of respondent Court as affirmed by us, that three of the ten persons seeking the back pay, Beato (Viato) Rendon, Eleizar Roxas and Vicente Roxas,[5] were among those specifically excluded from the benefits of such decision, as they had been convicted of crimes against petitioners, and that the rest of the employees could not in any event be entitled to back wages from November 2, 1963, as admittedly the petitioners' business had ceased operation for sometime.[6] It was then asserted that after a number of hearings with two witnesses testifying for the aforesaid employees, respondent Court, on September 24, 1966, issued an order, the dispositive portion of which reading thus: "[Wherefore], the Examining Division is hereby directed to compute the back wages of the following persons based on the rate opposite their respective names of six (6) days a week, (and per week in the case of Bolinen), from May 21, 1958, up to November 2, 1963, and to submit its report within fifteen days from receipt of this Order: 1. Milagros Ambac - P3.00/day; 2. Eugenia Bernabe P5.50/day; 3. Gregorio Bolinao - P35.00/week; 4. Salvacion Curillo - P4.00/day; 5. Adela Jacobe P4. 50/day; 6. Arsenio Ordoñez P4.00/day; 7. Gregoria Polequet - P4.00/day. The claims of co-movants Beata Rendon, Eleizar Roxas, and Vicente Roxas are hereby, [dismissed]."[7] There was the further allegation that this order of respondent Court "rejected the claim for back

wages from November 3, 1963, upon the ground of lack of evidence that there had been any work in Preserver since said date." [8]

There was a motion for reconsideration filed on October 4, 1966, within the reglementary five-day period. On October 6, 1966, petitioners were served a copy of the report of the examiner, in compliance with the aforesaid order of September 27, 1966, computing for the seven employees involved, duly represented by respondent Preserver Shoe Workers' Union - NAFLU, total back wages in the sum of P52, 705.83 from May 21, 1958 to November 2, 1963. Petitioners then moved, on October 10, 1966, to set aside the examiner's report on the plea that it was not only premature but completely erroneous, and on October 14, 1966, filed their arguments in support of their motion for reconsideration. On November 3, 1966, a resolution was issued by respondent Court denying such motion for reconsideration, there being no sufficient justification to alter or modify its order of September 27, 1966. Hence this petition for review.

What we have to inquire into in this proceeding is the validity of the above order of September 27, 1966 of respondent Court, the reconsideration of which was denied on November 3, 1966; it furnished the basis for the pecuniary liability of petitioners in the amount of P52, 705. 83.

1. It is alleged in the first assigned error that respondent Court "erred in ordering the computation complained of as such act constitutes a virtual reversal and setting aside of its own previous and long-final orders." [9] Referring to what had previously taken place after our decision of July 31, 1963, petitioners would invite attention to the order of respondent Court of December 11, 1964, which after reproducing the terms of the report of its hearing examiner, was expressly given the sanction of its approval. Then came this portion of their brief: "The union and its members never sought any reconsideration of the Order of December 11, 1964. It was, in fact, the petitioners herein who did so, resulting in the amendatory Order of March 2, 1965, excluding from the benefits of the original decision 6 of the 9 persons who had been convicted of offenses against Preserver. Except for that, none of the other terms or dispositions of the Order of December 11, 1964 were in any way touched upon or modified." [10]

Petitioners would then stress that accordingly the amount of P49,774.11 adjudged in the concept of back wages was there-after fully paid to the 33 persons entitled to such benefits. Then they would conclude: "It, therefore, clearly appears from the foregoing circumstances that the computation directed and authorized in the now questioned CIR Order of September 27, 1966, as a new attempt to reopen and readjudicate matters already specifically disposed of and ruled upon in previous orders not only long become final but already fully satisfied, can find no sanction or justification in any rule of law or pro-cedure." [11]

What petitioners failed to take into account was that, as decided by us, what was decreed by respondent Court was affirmed in our decision in the main case of which this incident is an offshoot. In the dispositive portion thereof, mention was expressly made of the reinstatement of the workers involved as well as the right to the back wages from May 18, 1958 until such reinstatement. Then came, on November 7, 1963, as noted in the petition for review itself, an order from the respondent Court directing the computation of the back wages in question. [12] When such report was submitted by the chief examiner of the respondent Court on January 10, 1964, an express mention was made of the fact that ten of the workers involved, whose claims are now the subject of this incident, could not be included in the computation "because their names did not appear in the payrolls and time cards examined." [13]

It would be farfetched, to say the least then, that the order of September 27, 1966 of respondent Court, now complained of, would constitute a virtual reversal and setting aside of its own previous order allegedly impressed with finality.

Nor should petitioners ignore the principle uninterruptedly adhered to from the time of its pronouncement by Justice Laurel in 1939, [14] that the statutory provision empowering respondent Court to alter, modify in whole or

in part or set aside any such award, order or decision, or reopen any question involved thereof[15] should be liberally construed to give full effect to its purpose and policy.[16] Only recently we had occasion to emphasize the generous scope accorded such prerogative of respondent Court. Thus: "The power of the Court of Industrial Relations which, as thus phrased, is comprehensive in character, has been given an interpretation by us consistent with the well-nigh sweeping reach of the language. It has never been construed in a niggardly sense; the recognition of such authority has been full and sympathetic, never grudging." [17] It would thus appear undeniable that the first error assigned affords no basis for reversing respondent Court.

2. We postpone consideration of the second error and deal with the third error allegedly committed. It would impugn the conclusion reached by respondent Court as to the amount thus arrived at in view of what petitioners considered the total failure of the seven claimants to prove their right to the back wages.

To quote from the brief of petitioners: "Only 2 of the 7 persons in whose favor the Order of September 27, 1966 was issued testified at the hearings. Upon this consideration, it is at once evident that the testimony of these 2 as to the remaining 5 is, for all practical purposes, hearsay and unacceptable, and cannot form the basis of a true verdict." [18] Petitioners would impute to one of the witnesses, a certain Eugenia Bernabe, the commission of perjury in view of what they considered to be differing versions as to the date when she stopped working. [19] The testimony of the other witness, a certain Adela Jacobo, petitioners would discredit as for them her possession of full knowledge of the wages of the other claimants as well as the nature of their duties [20] appeared to be lacking in credibility. Even if full force be accorded to the above attempt to discredit in their entirety such testimonial evidence, still in the light of the controlling doctrine that a grave abuse of discretion must be shown in order to warrant our disturbing the findings of fact of the lower court, no reversal of the challenged order of September 27, 1966 is called for.

Moreover, petitioners appear to be oblivious of the statutory mandate that respondent Court in the hearing, investigation and determination of any question or controversy and in the exercise of any of its duties or powers is to act "according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms and shall not be bound by any technical rules of legal evidence" informing its mind "in such manner as it may deem just and equitable." [21] Again, this Court has invariably accorded the most hospitable scope to the breadth and amplitude with which such provision is couched. So it has been from the earliest case decided in 1939 [22] to a 1967 decision. [23]

To the reproach hurled against the challenged order in the brief of petitioners, in view of only two of the seven claimants testifying, a statement by this Court in *Ormoc Sugar Co., Inc. v. OSCO Workers Fraternity Labor Union* [24] would suffice by way of refutation. Thus: "This Court fully agrees with the respondent that quality and not quantity of witnesses should be the primordial consideration in the appraisal of evidence." Barely eight days later, in another decision, [25] the above statement was given concrete expression. Thus: "The bases of the wards were not only the respective affidavits of the claimants but the testimonies of 24 witnesses (because 6 were not given credence by the court below), who identified the said 239 claimants. The contention of petitioner on this point is therefore unfounded." Moreover, in *Philippine Land-Air-Sea Labor Union (PLASLU) v. Sy Indong Company Rice & Corn Mill*, [26] this Court, through the present Chief Justice, rejected as untenable the theory of the Court of Industrial Relations concerning the imperative need of all the claimants to testify personally and prove their charges in the complaint. As tersely put: "We do not share the view taken in the resolution appealed from."

3. The second alleged error is not so easily disposed of. Petitioners invite our attention to the fact that in the computation followed in the order of respondent Court of December 11, 1964, which was the basis of the amounts paid to the workers whose claims had been fully satisfied, the number of working days would reach only

803.47. The challenged order of September 27, 1966, however, would fix the number of working days at 1,653. That would follow from the explicit requirement therein that the computation for the seven workers entitled should be on the basis of six days a week from May 21, 1958 up to November 2, 1963. To quote from petitioners' brief: "In other words, not only does the CIR now unnaturally assume that those 7 could have worked uninterruptedly during said period, without getting sick or late or finding any other necessity or occasion for absence, it also reverses its former ruling that Preserver was not in continuous operation during that period." [27]

It would appear that such an objection on the part of the petitioners could not be considered as totally bereft of plausibility. It is not devoid of persuasive force. As more emphatically set forth in petitioners' brief: "The disparity between the benefits obtained by the original 33 workers and those computed for the 7 now in question is shocking and un-conscionable. The former were credited with total back wages of only P63,057.50 (later reduced to P49,774.11 for 27 workers), while the latter are credited with fully P52,705.83. Accordingly, while the first-mentioned sum of P49, 774.11 averages out at only some P1,844.00 for each of the 27 workers, the second sum of P52,705.83 averages out at no less than P7,817.00 for each of 7 persons, a ratio of more than 4 to 1." [28]

It is to be admitted that the mere fact that there was such disproportionate increase in the financial liability to be assumed by petitioners did not of itself suffice to indicate that an error was committed by respondent Court. Considering, however, that such a result was arrived at due to the failure of respondent Court to observe with fidelity what was decreed by us in the parent case as previously implemented and that on its face the element of arbitrariness manifested itself, petitioners did have a valid cause for complaint, as set forth in this particular assignment of error.

Only last month, in a labor case, far from dissimilar, [29] we had occasion to reaffirm the doctrine that primacy should be accorded the law of the case. Quoting an opinion of Justice J. B. L. Reyes, in *People v. Olarte*, [30] we emphatically observed that a ruling of that character "even if erroneous, * * * may no longer be disturbed or modified since it has become final * * *." It does not admit of doubt that with reference to our final judgment in labor matters, which insofar as the back wages due the aggrieved workingmen could require further action from respondent Court, the law of the case does not apply solely to what is embodied in our decision but likewise to its implementation carried out in fealty to what has been by us decreed. To be more specific, in the matter before us, the first group of 27 employees were paid the amount of P49, 774.11 in accordance with our July 1963 decision. The respondent Court did, in pursuance of our mandate, follow a criterion for computing such back wages. It deviated from it when the back wages due the present respondents were computed. As a result, 7 employees would be entitled to P52,705.83. Clearly, that is not to follow the law of the case. In that sense, respondent Court committed error.

Such an error was impressed with more gravity in view of the failure of respondent Court to submit to the controlling force of *Ang Tibay v. Court of Industrial Relations*. [31] In that leading case, Justice Laurel, speaking for this Court, made clear that one of the "cardinal primary rights" embraced in the procedural due process that must be observed by administrative agencies is the necessity for substantial evidence to support the decision reached by it. This particular assignment of error pointed out the lack of evidence on which to predicate the holding that the employees now before us were supposed to have worked six days a week during the period in question, thus resulting not only in the much greater number of days on which they were presumably rendering service as distinguished from the first group of employees but also in the unwarranted increase in the financial liability to be assumed by petitioners. There was thus a manifest failure to observe the requirement that the evidence be substantial. For thereby the actuation of respondent Court was marred by arbitrariness. That was to deprive petitioners of due process which requires reasonableness and fair play. [32]

This particular assignment of error must be sustained. It suffices for the case being remanded to respondent Court

so that in ascertaining the back pay to which the workingmen now before the Court are entitled, the same basis for the computation thereof should be followed as in the case of their co-employees, whose claims had already been satisfied in accordance with our decision.

WHEREFORE, the challenged order of respondent Court of September 27, 1966 as well as the resolution of respondent Court of November 3, 1966 denying reconsideration are set aside and the case remanded to respondent Court for disposition in accordance with this opinion. Without costs.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Republic Act No. 875, Section 5(c).

[2] Ruperto Sanchez and Modesto Sanchez v. Court of Industrial Relations, L-19000, July 31, 1963.

[3] Petition for Review, p. 4.

[4] Ibid, p. 6.

[5] Ibid, p. 5.

[6] Ibid, pp. 5 and 6.

[7] Ibid, p. 6.

[8] Ibid, p. 6.

[9] Brief for the Petitioners, p. 10.

[10] Ibid, p. 13.

[11] Ibid, pp. 13-14.

[12] Petition for Review, p. 3.

[13] Ibid, p. 4.

[14] Goseco v. Court of Industrial Relations, 68 Phil. 444.

[15] Section 17, Commonwealth Act No. 103 (1936).

[16] Cf. Luzon Brokerage Co. v. Luzon Labor Union, 83 Phil. 801 (1949); Church v. La Union Labor Union, 91 Phil. 163 (1952); Hotel & Restaurant Free Workers v. Kim San Cafe, 102 Phil. 470 (1957); National Development Co. v. Court of Industrial Relations, 106 Phil. 307 (1959) and San Pablo Oil Factory v. Court of Industrial Relations, L-18270, November 28, 1962.

[17] Philippine Association of Free Labor Unions v. Salvador, L-29471 & L-29487, September 28, 1968.

[18] Brief for the Petitioners, p. 25.

[19] Ibid, pp. 25-28.

[20] Ibid, p. 29.

[21] Sec. 20, Commonwealth Act No. 103 (1936).

[22] Goseco v. CIR, 68 Phil. 444.

[23] Phil. Sugar Institute v. CIR, L-18930, February 28, 1967. The other cases decided in between such dates follow: International Hardwood and Veneer Co. v. Pañgil Federation, 70 Phil. 602 (1940); Leyte Land Trans. Co. v. Leyte Farmers' and Laborers' Union, 80 Phil. 842 (1948); Gotamco Lumber Co. v. CIR, 85 Phil. 291 (1950); Church v. La Union Labor Union, 91 Phil. 163 (1952); Caltex v. Phil. Labor Org., 92 Phil. 1014 (1953); National City Bank of New York v. National City Bank Employees Union, 98 Phil. 301 (1956); Luzon Stevedoring Co., Inc. v. Luzon Marine Dept. Union, 101 Phil. 257 (1957); Cano v. CIR, L-15594, Oct. 31, 1960; Luzon Brokerage Co. v. Luzon Labor Union, L-17085, Jan. 31, 1963; and Free Employees and Workers As so. v. CIR, L-20862, July 30, 1965.

[24] L-15826, January 23, 1961.

[25] Luzon Brokerage Co. v. Luzon Labor Union, L-17085, January 31, 1963. Cf. Magdalena Estate, Inc. v. Kapisanan, L-18336, May 31, 1963; National Shipyards and Steel Corp. v. CIR, L-21675, May 23, 1967.

[26] L-18476, May 30, 1964.

[27] Brief for Petitioners, p. 22.

[28] Ibid, p. 23.

[29] National Waterworks & Sewerage Authority v. NWSA Consolidated Union, L-26894-96, February 28, 1969.

[30] L-22465, February 28, 1967.

[31] 69 Phil. 635 (1940). The Ang Tibay was followed in the subsequent cases of Antamok Goldfields Mining Co. v. CIR, 70 Phil. 340 (1940); Manila Trading & Supply Co. v. PLU, 71 Phil. 124 (1940); Mindanao Bus Co. v. MBC Empls. Asso., 71 Phil. 168 (1940); Manila Trading & Supply Co. v. PLU, 71 Phil. 578 (1941); Leyte Land Trans. Co. v. Leyte Farmers & Laborers' Union, 80 Phil. 842 (1948); Shell Co. v. NLU, 81 Phil. 315 (1948); Philippine Education Co. v. CIR, 94 Phil. 73 (1953); Lakas ng Pagkakaisa sa Peter Paul v. CIR, 96 Phil. 63 (1954); Dimayuga v. CIR., et al. , 101 Phil. 590 (1957); NLU v. Sta. Ana, 102 Phil. 302 (1957); Ormoc Sugar Co., Inc. v. OSCO Workers Frater-nity Labor Union, L-15826, Jan. 23, 1961; NDC v. Collector of Customs, L-19180, Oct. 31, 1963; Timbangaya v. Vicente, L-19100, Dec. 27, 1963; Vigan Electric Light Co., Inc. v. PDC, L-19850, Jan. 30, 1964; Lustre, et al. v. CAR, L-19654, Mar. 31, 1964; Commissioner of Immigration v. Hon. Fernandez, L-22696, May 29, 1964; Borja v. Moreno, L-16487, July 31, 1964; Santos v. Secretary of Public Works, L-16949, March 18, 1967; Philippine Air Lines, Inc. v. CAB, L-24321, July 21, 1967; Ermita-Malate Hotel & Motel Ope-rators Asso. v. City Mayor, L-24693, July 31, 1967; Caltex-(PHIL.) Inc. v. Castillo, L-24657, Nov. 27, 1967; Palanan Lumber & Plywood Co., Inc. v. Hon. Arranz, L-27106, Mar. 20, 1968; Caltex Filipino Mgrs. & Supvs. Asso. v. CIR, L-28472; April 30, 1968; Philippine Air Lines v. CAB, L-24219, June 13, 1968; Alalayan v. NPC, L-24396, July 29, 1968; Serrano v. PSC, L-24165, Aug. 30, 1968; and Gracilla v. CIR, L-24489, Sept. 28, 1968.

[32] Ermita-Malate Hotel Asso. v. City Mayor, L-24693, July 31, 1967; Morfe v. Mutuc, L-20387, Jan. 31, 1968; Santiago v. Alikpala, L-25133, September 28, 1968.

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