

PERFECTO DIMAYUGA, ET AL., PETITIONERS, VS. COURT OF INDUSTRIAL RELATIONS AND CEBU PORTLAND CEMENT COMPANY, RESPONDENTS.

G. R. No. L-10213. May 27, 1957

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On March 24, 1952, petitioners filed with the Court of Industrial Relations a petition demanding their reinstatement to the service of the Cebu Portland Cement Company, hereinafter referred to as respondent. In a motion to dismiss dated April 19, 1952, respondent prayed that the court dismiss the petition for lack of jurisdiction on the grounds (a) that there was no industrial dispute between respondent and petitioners' inasmuch as, at the time of filing the petition, there was no employer-employee relationship between them; (b) the petition could not give rise to strike or lock-out; and (c) petitioners were estopped from questioning their separation from the service when they agreed to be paid gratuities and separation pay. This motion was denied in an order dated March 23, 1953, which was later affirmed by the court en banc.

On August 29, 1953, respondent filed its 'answer praying for the dismissal of the petition on the ground that the abolition of the positions held by, and consequently, the lay-off of petitioners, were carried out in pursuance of the retrenchment policy of the government; that the lay-off was authorized by respondent's board of directors which action was approved by the Office of the Economic Coordination; that upon their lay-off, petitioners were paid their gratuities; that by receiving their gratuities or separation pay, petitioners were under estoppel to question the legality of their separation; and that the court which took cognizance of the petition lacks jurisdiction as when the same was filed there was no longer any employer-employee relationship.

After trial, the court on September 2, 1955 rendered judgment ordering the respondent to reinstate with back salaries six of petitioners who testified in court, namely, Maximo J. Savellano, Leon F. Pelaez, Galileo Sotto, Emilia Castillo, Pablo Barrios and Pablo Castillo, at the same time ordering respondent to deduct from their back salaries whatever earnings they might have received from employment elsewhere during the period of their lay-off. The rest of petitioners were denied reinstatement and/or payment of their back salaries because, according to the court, they "have either been reinstated in the service of respondent or did not show any interest in the prosecution of their demand." Petitioners filed a motion for reconsideration, which was denied by the court en banc on January 9, 1956. This is now a petition for review of said order wherein petitioners state the issues to be as follows:

"I

THE EXCLUSION OF THE HEREIN 48 PETITIONERS WHO DID NOT TESTIFY INDIVIDUAL CLAIMS FROM THE BENEFITS OF REINSTATEMENT WITH BACK SALARIES OR WAGES AWARDED TO THE SIX PETITIONERS WHO TESTIFIED, IS NEITHER VALID, LEGAL NOR EQUITABLE.

II

THE PETITION HAVING BEEN PRESENTED AS A CLASS SUIT, WHATEVEE AWARD IS GIVEN TO THEIR, SIX CO-PETITIONERS SHOULD BE EXTENDED TO THE HEREIN PETITIONERS ALSO.

III

THE COURT OF INDUSTRIAL RELATIONS BEING A QUASI JUDICIAL COURT SHOULD NOT RESORT TO RIGID AND TECHNICAL RULES IN THE HEARING, INVESTIGATION AND DETERMINATION OF CASES BEFORE IT.

IV

THE EXCLUSION OF TEN (10) PETITIONERS HEREIN WHO WERE ALREADY REINSTATED BY THE RESPONDENT CORPORATION FROM THE BENEFITS OF BACK SALARIES OR WAGES DURING THE PERIOD OF THEIR UNJUSTIFIED LAY OFF, IS A CLEAR ABUSE OF DISCRETION ON THE PART OF RESPONDENT COURT."

With regard to the claim that the Court of Industrial Relations erred in excluding the herein petitioners from the benefits of reinstatement with back salaries on the main ground that they did not testify to support their individual claims and as such exclusion is neither legal nor equitable, it is well to observe what said court has said in its decision in justification of such exclusion. The pertinent portion of the decision reads:

"In the course of the hearing¹ of this case, the Court held that all the persons named in the petition as petitioners must testify on their individual claims if they are to be benefited by any award which the Court may eventually grant. Of the petitioners, only Maximo J. Savellano, Second Assistant General Manager, Leon F. Pelaez, Administrative Assistant, Galileo Sotto, Assistant Purchasing Agent, Emilio Castillo, Electrician, Pablo 'Castillo, Truck laborer, and Pablo Ii. Barrios, chauffeur, testified and proved their claim. The rest (the herein petitioners) have either been reinstated in the service of respondent or did not show any interest in the prosecution of their demand." (Order of September 2, 1955).

When petitioners filed a motion for reconsideration of said portion of the decision, the court en banc, in denying it after a hearing, reiterated its stand in the following wise:

"As observed by the Court in the subject order, petitioners, through counsel, in the course of the hearing were warned that unless they individually testify to justify their claim regarding their respective dismissals, any award which may eventually be granted in this case may only include those who will testify. In spite of this warning, only Maximo J. Savellano, Leon T. Pelaez, Galileo Sotto, Emilio 'Castillo, and Pablo R. Barrios of the petitioners who were not reinstated, testified. As the basis of the reinstatement claim of petitioners are the allegations in paragraph 4 of the petition, the truth of which was denied by respondent in its answer, it is clearly incumbent upon them (petitioners) to individually prove their claim of unjustified dismissals. Until and unless proof is adduced to sustain their allegations, it is elementary that respondent need not produce evidence in support of its denial. Since, "with the exception of the six (6) mentioned petitioners, the other petitioners did not offer proof to justify their claim of unjustified dismissals, then it could not be said that on that issue the said order is contrary to law, justice and equity."

It therefore appears that if the court did not order the reinstatement of petitioners in the same manner as it did with regard to the six other petitioners whose names appear in the decision, it is because they have either been reinstated in the service of respondent or did not show any interest in the prosecution of their claims. There is no law which entitles a laid-off employee or laborer to reinstatement as a matter of right. In order that such right may be accorded, it is necessary that there be a judgment to that effect which, in turn, depends upon facts and circumstances which may warrant reinstatement as the court may find to be established by evidence. As the law provides: "If it is proved that during the said period an employee or laborer, tenant or farm-laborer has been suspended or dismissed without just cause, the court may direct his reinstatement and the payment of his salary or

wage during the time of suspension or dismissal" (Commonwealth Act No. 103, as amended by Commonwealth Act No. 355 and section 5 of Commonwealth Act No. 559). The claim therefore must be proved by evidence satisfactory to the court, and whether the evidence is satisfactory or not, is a matter that lies within its discretion. Petitioners herein have been warned that unless they individually appear and testify to justify their respective claims, the same may be denied. When petitioners ignored the warning, they took the risk and cannot now be heard to complain of the consequences.

Petitioners contend that "the Court of Industrial Relations being a quasi-judicial court, should not resort to rigid and technical rules in the hearing, investigation and determination of cases before it", invoking to this effect Section 20 of Commonwealth Act No. 103 which enjoins that "in the hearing, investigation and determination of any question or controversy and in exercising any duties and power under this Act, the Court shall 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 but may inform its mind in such manner as it may deem just and equitable."

While the Court of Industrial Relations, as this Court well said, is "free from the rigidity of certain procedural requirements", this does not mean however that "it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirement of due process in trials and investigations of an administrative character." It then proceeded to enumerate what it considers as cardinal primary rights which must be respected in proceedings before that court, such as the right to a hearing, the requirement that there must be something to support its decision, that evidence to support the decision must be substantial, excluding mere uncorroborated hearsay, and that the decision must be rendered on the evidence presented at the hearing or at least contained in the record of the case. (*Ang Tibay vs. Court*, 69 Phil., 635).

Petitioners however would like this Court to consider the present case as a class suit as provided for in section 12, Rule 3, of the Rules of Court, for the reason that they are numerous and the subject matter of the controversy is one of common or general interest to all of them and,

consequently, there is no need for each and every one to appear and testify on their individual claims for one or some may suffice to testify for the rest. In the first place, the only inkling that this action has the nature of a class suit is counsel's manifestation in the latter part of the hearing that he was presenting the present case as one of that class. There is nothing in the record to support his claim that this case was presented in that character. It is only during the hearing of December 21, 1953 when petitioners were about to rest their case that counsel made the verbal manifestation that he was submitting the case as a class suit, and this was when counsel for respondent pressed action on his motion disputing the authority of said counsel to appear for petitioners who then numbered eighty-two in all. When counsel was not able to show his authority, he resorted to the expedient that this was a class suit. Apparently, the commissioner or the court did not entertain such pretense and required counsel either to show his authority or make all petitioners appear and testify. Either step, he failed to comply.

In the second place, section 12, Rule 3, of the Rules of Court, which deals on class suits, provides that in order that one or more may sue for the benefit of others as a class suit, it is necessary that "the court shall make sure that the parties actually before it are sufficiently numerous and representative so that all interests are fully protected." And here the court was not given such opportunity, for there is no such allegation in the petition nor in any other pleading. This matter only came up as a spontaneous manifestation of counsel when his authority to appear was put in doubt.

Finally, a class suit is one where "one or more may sue for the benefit of all" implying that if the parties are numerous and it is impracticable to bring them all to court, one or more may sue for their benefit. Here the way

the petition was filed is a negation of such character, for a cursory reading thereof would show that all petitioners are appearing as parties in interest. In fact, their names appear therein. They are appearing individually and not as members of a union, although they are supposed to be represented by their counsel who is the only one who signed the petition. It is for this reason that his authority to represent them was challenged by respondent, and this respondent did because at least fourteen of them have signed statements that they have not given authority to counsel to represent them in the case. Moreover, it was necessary that such authority be produced because a labor dispute requires that at least thirty or more should appear in order that the court may acquire jurisdiction (section 4, Commonwealth Act No. 103). The very nature of a class suit conflicts with this provision of the law.

Petitioners finally consider it as an abuse of discretion on the part of the industrial court not to award to the ten petitioners who were voluntarily reinstated by respondent shortly after the filing of the petition the benefits of back wages during the period of their separation, in spite of the fact that their separation was found to be unjustified. In considering this plea, the industrial court said: "The right to back wages is discretionary upon the Court. This is not based upon a law. In the case of Yandan and the others who were reinstated pending the disposition of this case, they declared that they placed it upon the Court to give them or not the wages they failed to receive during their layoff. Since the right to back wages is discretionary upon the Court and considering the open declaration of these petitioners, there is nothing in the subject order, therefore, which is against the law, justice and equity."

We find these remarks well made. Back pay is something that may be waived by the party concerned especially if he has been reinstated. The conditions of reinstatement may depend upon some factors which are not generally bared before the court. If these laborers placed the matter at the discretion of the court, they may have good reasons for it and it is not for the court to inquire into them. There is nothing improper nor illegal in the action of the court.

The orders appealed from are hereby affirmed, without pronouncement as to costs.

Bengzon, Padilla, Montemayor, Reyes, A., Labrador, Endencia, and Felix, JJ., concur.

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