

**PANGASINAN TRANSPORTATION COMPANY, INC. (PANTRANCO),
JOHN MCGUINNESS, AND JUAN ANDREU, PETITIONERS, VS. THE
COURT OF INDUSTRIAL RELATIONS, PANGASINAN EMPLOYEES,
LABORERS & TENANTS**

G. R. No. L-9736. May 20, 1957

Ponente: FELIX, J.

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FELIX, J.:

This is a petition for certiorari filed by the Pangasinan Transportation Company, Inc. (pantranco) ' seeking to review the order of the Court of Industrial Relations dated June 14, 1955, finding said Company guilty of unfair labor practice under Section 4 of Republic Act No. 875. The facts of the case may be abridgedly stated ,as follows:

On November 3, 1953, a complaint was filed with the Court of Industrial Relations by the Acting Prosecutor of said Court, upon charges filed by the pelta (Pangasinan Employees, Laborers & Tenants Association) against the panteanco (Pangasinan Transportation Co.), its Traffic and Shop Superintendents, John McGuinness and Juan Andreu, respectively (Case No. 67-ULP). The complaint alleged that on March 20, 1953, a petition for compulsory arbitration of certain demands was filed by complainant pelta against the respondent pantranco (Case No. 842-V) ; that during the pendency of said case, and with the filing of case No. 28-ULP (wherein the petitioning Union charged the defendant Company of committing unfair labor practices), respondent Corporation through Traffic Superintendent John McGuinness, arbitrarily dismissed Patricio Tuliao on August 13, 1953, Santiago Asido on September 12, 1953, and that Shop Superintendent Juan Andreu refused to give work to Cornelio Reyes from September 16 to 30, 1953, allegedly for being members of the Union, said Prosecutor certifying that he had conducted an investigation of the complained acts and that there were reasonable grounds to believe that same had been committed by the respondents.

The record further shows that before this complaint was filed, the Union, through counsel, filed an "Amended Complaint" with the CIR, dated September 24, 1953, and bearing Case No. 67-ULP, alleging that complaining Union had no less than 500 members employed in the Company, among whom are Patricio Tuliao, conductor, Santiago Asido, driver, and Cornelio Reyes, blacksmith; that John McGuinness and Juan Andreu arbitrarily dismissed the said employees allegedly for being members of the Union; that there was a labor dispute pending before that Court between the same parties. (Case No. 842-V), and praying that defendant be ordered to cease and desist from such acts of unfair labor practices; that the maximum penalty be imposed on the person responsible for such acts; that if the person responsible was a foreigner, after investigation, the records of the case be forwarded to the Deportation Board for appropriate proceedings; and that the aforementioned members of the Union be ordered reinstated immediately with back wages and for such other relief that may be just and equitable in the premises. It seems that this "Amended Complaint" was the basis of the complaint filed by the Acting Prosecutor of the Court of Industrial Relations, both being numbered Case No. 67-ULP.

It also appears on record that on October 23, 1953 before the institution of the complaint by the Prosecutor, the petitioning Union and its members declared a strike and that the President of the Philippines certified the case to the Court of Industrial Relations for compulsory arbitration pursuant to Section 10 of Republic Act No. 875, docketed as Case No. 1-IPA. Consequently, the Court of Industrial Relations, en banc, issued a resolution dated January 14, 1954, ordering the members of the Union to return to work not later than January 18, 1964, stating that upon agreement of the parties "those workers who are subject of ULP cases pending in this Court and those under criminal investigation or accused in any court of justice, shall not be readmitted by the management for the present, but their cases shall be heard by the corresponding courts until final determination".

After trial on the merits, the lower Court issued an order dated June 14, 1955, finding that unfair labor practices were committed by John McGuinness in suspending Patricio Tuliao and by Juan Andreu in suspending Cornelio Reyes, but upheld the dismissal of Santiago Asido. It, therefore, ordered respondents:

- To cease and desist from dismissing-, discharging or otherwise prejudice or discriminate against their employees for their union affiliations and/or for having; filed charges or for having given or being about to give testimony under Republic Act No. 875; and
- To make whole Patricio Tuliao and Cornelio Reyes for any loss of pay each may have suffered by reason of the respondents' discrimination against them, by payment to each of them of a sum equal to the amount which each normally would have earned as wages from the date of respondents' discrimination to the date they are actually re-admitted. Tuliao and Reyes are entitled to the benefit of vacation and sick leave with pay from the date of their re-admission computed on a basis of continuous service which covers the period between the date of their suspension up to the date of their re-admission, without prejudice to seniority or other rights or privileges".

The motion for reconsideration filed by the Company having been denied by the Court en bane, said defendant filed the present certiorari case, and in this instance alleges that the respondent Court committed grave and serious error of law and grave and serious abuse of discretion in ignoring and disregarding evidence favorable to herein petitioners; in concluding that petitioners John McGuinness and Juan Andreu committed unfair labor practices; and in ordering petitioners to pay respondents Patricio Tuliao and Cornelio Reyes their wages from the time they were suspended up to the date of their actual readmission to service.

Pending the action of this Court on the petition for certiorari filed by the PANTRANCO, respondents pelta, Patricio Tuliao and Cornelio Reyes filed with the lower court a motion for execution of judgment, which was opposed by the Company. Before said motion was resolved by the court below, this Court gave due course to the present certiorari case by resolution of October 5, 1955, and upon motion of the respondent Prosecutor, he was excluded on the ground that he was not a necessary party to this action. Respondents PELTA, Reyes and Tuliao filed their answer within the reglementary period, admitting some of the allegations of the petition and denying others, maintaining that no error or abuse of discretion had been committed by the trial court in promulgating the order in question, and praying that the petition be dismissed and that they be granted such other relief that may be just and equitable in the premises.

The respondent Court of Industrial Relations, represented by counsel, also timely filed its answer contending that there had been no abuse of discretion on the part of said Court; that the respondent Court did not intend to declare that Cornelio Reyes was suspended for being lazy, and as could be inferred from the succeeding sentences, there must have been a clerical error in the omission of the word "allegedly" which should properly appear before the phrase "for being lazy"; that the order sought to be reviewed involves purely findings of fact, and, therefore, prayed for the dismissal of the petition.

Meanwhile, or on December 8, 1955, the lower court issued an order in connection with the motion for execution

previously filed by petitioners therein, holding that in virtue of the express provisions of Section 6 of Republic Act No. 875, said Court had no other alternative but to execute the order of June 14, 1955, in the absence of any writ of injunction from the Supreme Court restraining the former from enforcing the same. Herein petitioner moved to reconsider said order which was denied by resolution of that Court of February 6, 1956, with Acting Presiding Judge Jose S. Bautista dissenting.

Petitioner, therefore, filed with this Court an urgent- petition for a writ of injunction on the ground that the execution of the decision appealed from during the pendency of the present action will not only cause the herein petitioners irreparable injury but would also work injustice to them, further aggravating and multiplying the issues in this case. However, said petition was denied by this Court by resolution of February 22, 1956.

It was alleged by petitioner that Cornelio Reyes was suspended by Juan Andreu from September 16 to September 30, 1953, for laziness, which, according to the trial court, was not proved. The proof of the Company to this effect consisted merely of the testimony of Juan Andreu, the Shop Superintendent who suspended him, which was denied by said employee. This is a question of fact which

Pangasinan Trans. Co., Inc. et al. vs. Court of Industrial Relations, et al. concern's the credibility of witnesses and We cannot disturb the finding of the lower court not only because it had the opportunity to hear them testify and observe their demeanor while so testifying, but also because "the findings of fact of the Court of Industrial Relations with respect to questions of fact, if supported by substantial evidence on the record shall be conclusive. The appeal to the Supreme Court shall be limited to questions of law" (Section 6, Rep. Act No. 875). This Court is not empowered to look into the correctness of the findings of fact in an award, order or decision of the Court of Industrial Relations, * * *. (Carmen de la Paz Vda. de Ongsiako vs. Teodoro Galnban et al., 86 Phil., 50, 47 Off. Gaz., 5612).

"We cannot reverse a decision or order of the Court of Industrial Relations on pure questions of fact" (Central Azucarera de Tarlac as. Court of Industrial Relations, G. R. No. 16843; Manila Electric Company vs. National Labor Union, G. R. No. 47279, and many others).

"It "would be idle for "us to review the findings of the Industrial Court. This we are not supposed to do both under the Rules of Court and the law creating that body" (Destileria Ayala y Cia., Inc. vs. Lipa Naeional Obrera de Filipinas and Court of Industrial Relations, G. R. No. 48346).

There is one aspect of petitioner's defense that merits consideration. It was admitted by respondent worker (Cornelio Reyes) that he was reinstated on October 1 and worked up to October 23, 1953, joining the strike staged by the members of the respondent Union on October 24, 1953. Before the strike was settled, or sometime in October, 1953, the Company learned that Reyes was convicted of the crime of theft and thus considered him automatically dismissed as of that date, on the ground that the provisions of Section 47., Rules and Regulations of the Public Service Commission in relation to Section 21 of the Public Service Act, precluded them from employing him any further. . This was disputed by the employee who testified that Mr. Andreu knew his previous conviction for it was even he, Mr. Andreu, himself who recommended him to the job. Commonwealth Act No. 146, known as the Public Service Act, provides the following:

"Sec. 21. Every public service violating¹ or failing to comply with the terms and conditions of any certificate or any orders, decisions or regulations of the Commission shall be subject to a fine of not exceeding two hundred pesos per day for every day during which such default or violation continues; and the Commission is hereby authorized and empowered to impose such fine, after due notice and hearing.

* * *."

And in amplification of the above-quoted provision, certain rules and regulations were promulgated by the Public

Service Commission, Section 47 of which prescribes the following:

"Sec. 47. COURTESY, CHARACTER, RECORD, ETC.—Each operator shall employ in his service only such chauffeurs, conductors, agents, inspectors, auditors and other employee, who are courteous and of good moral character; and in no case shall he employ any person who has been convicted by a competent court of homicide and/or serious physical injuries through reckless imprudence, ordinary serious physical injuries, theft, estafa, robbery and crimes against chastity. Operators are prohibited from employing as chauffeurs persons who do not have professional drivers' license" (Rules and Regulations of the Public Service Commission),

The record bears out the fact that Coraelio Reyes was convicted of the crime of theft by the Court of First Instance of Pangasinan but this was not considered as a justifiable ground for his dismissal by the Court of Industrial Relations because "he was accepted by the former (company) after the latter (Reyes) was convicted of such crime". We fail to see the logic of this reasoning. It seems that the lower court considered the company estopped from alleging now that said conviction could be made the basis of his separation which is evidently erroneous under the terms of the law and regulations aforequoted.

Section 47 of the Rules and Regulations of the Public Service Commission is couched in unmistakable mandatory terms; it forbids the employment of persons convicted of offenses enumerated therein, one of them being the crime of theft. We believe that this restriction equally applies to those who are already employed as well as those merely seeking admission to the service. The allowance in this case of the operation of the principle of estoppel on the management would set a dangerous precedent which could give a leeway for the circumvention of said regulation or result in the unnecessary punishment of an employer who may have taken under his employ a person convicted of any of the crime embraced in the regulations and would thus suffer the penalty imposed by Section 21 of the Public Service Act despite his desire to comply therewith upon discovery of the disqualification.

Finding that a public service operator has a right to refuse employment or terminate the services of an employee so as to comply with the aforementioned regulation. We will now proceed to determine whether those working in the company's shop (as Cornelio Reyes was at the time of his dismissal) are included among those enumerated therein.

Section 47 of said regulations speaks of chauffeurs, conductors, agents, inspectors, auditors and other employees. The term "other employees" is explicit, and embraces all persons in the company's employ including those working in the shop even if their kind of work is not specifically indicated among the classes mentioned therein, for they certainly fall within the classification of "other employees". The reason behind this requirement of courtesy and good moral character cannot be assailed and is understandable. A public service operator deals directly with the patronizing community and the nature of such undertaking necessarily demands of the company the maintenance of a personnel with unquestionable record of good moral character, for the public entrust their lives, properties and interests in said services and deserve utmost courtesy, efficiency and safety in return. As there is no question that the promulgation of these regulations was in consonance with the grant of authority to issue rules provided for by Section 16 (d) of the Public Service Law, and as the refusal of the Company to re-employ Cornelio Reyes is apparently based on this prohibition (independently of whether his dismissal might also be due to his union activities), said termination of employment cannot be considered as an unfair labor practice.

Anent the case of Patricio Tuliao, it was not disputed that he was suspended for 30 days for having driven the company's bus No. 221 to a shed inside the PANTRANCO terminal at Alaminos, Pangasinan, the distance covered being admittedly about 5 or 6 meters only. Tuliao was not the authorized driver of said bus, he being its conductor at the time, and although this act was a violation of the regulations of the company, yet considering the

circumstance that it was raining and that said conductor, who was then unloading cargoes from the vehicle, merely wanted to avoid the goods from being soaked and damaged, We believe that the Company was too drastic in imposing that penalty upon him. It was the Company's assertion that Tuliao was with the driver Santiago Asido, who was suspended for having utilized the Company's bus in bringing 2 lady teachers from Santa Cruz to Candelaria in the province of Zambales, places in which the Company had no authority or line, and thus dismissed said conductor after his suspension. The said driver's suspension and dismissal was upheld and considered justified by the Court of Industrial Relations but this fact does not imply that the conductor of the bus could likewise be adjudged guilty of the same act. Even common sense would dictate that the conductor who was not at the wheel cannot be made answerable for the wrongful act of the driver in bringing the vehicle outside of its authorized route, unless it could be proved that he instigated or forced the driver to commit that violation. But such fact did not come out during the hearing in the court below, nor was it even alleged therein. We, therefore, feel safe to say that there being no serious cause or irregularity committed by respondent Patricio Tuliao, the trial Court did not err in pronouncing that said employee does not deserve the penalty of suspension and later dismissal resorted to by petitioner. Although no proof was adduced to establish that said steps were taken due to respondent's union affiliation, certainly they are whimsical and unjustified.

Wherefore, the decision appealed from is reversed in so far as (a) it orders the petitioner Pangasinan Transportation Company to reinstate Cornelio Reyes to his position of blacksmith and to pay him for any loss he may have suffered by reason of any alleged discrimination made against him as well as a sum equal to the amount which he normally would have earned as wages from the date of said petitioner's discrimination to the actual date which (by said decision) he was to be readmitted (or up to the date when Cornelio Reyes was actually admitted to work in virtue of the order of execution of the judgment of the lower court, as per its order of December 8, 1955, if it was ever carried out—p. 181 of the record); and (b) it declares that respondent Cornelio Reyes is entitled to the benefit of vacation and sick leave with pay from the date of his readmission computed on a basis of continuous service which involves the period between the date of his suspension up to the date of his readmission. The decision appealed from is affirmed in all other respects, without costs. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Reyes, J. B. L., and Endencia, JJ., concur.

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