

**ERLANGER & GALINGER, INC., AND L.B. NESTLE, PETITIONERS,  
VS. COURT OF INDUSTRIAL RELATIONS AND EULOGIO P. FLORES,  
RESPONDENTS.***G.R. No. L-15118. December 29, 1960*

Ponente: GUTIERREZ DAVID, J.

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On November 9, 1954, upon charges filed by herein respondent Eulogio P. Flores, and after preliminary investigation, a complaint for unfair labor practice was filed in the Court of Industrial Relations by an acting prosecutor of that court against Erlanger and Galinger, Inc., a corporation organized under Philippine laws and its general manager, L. B. Nestle. The complaint alleged that the corporation and general manager, thru their officers, supervisors and agents, initiated and assisted in the formation of a labor organization composed of their employees and supervisors known as the Kontiki Employees Association and continuously thereafter interfered with its administration, supported, controlled and dominated it, thereby violating the employees' right to self-organization as provided for in section 3 of Republic Act 875; that on or about July 10, 1954, by reason of the union activities of complainant Eulogio P. Flores after he was employed by respondents as credit investigator-collector, particularly his efforts as legal adviser of the Association, the latter summarily and discriminatorily discharged him and appointed to his position two persons receiving higher salaries; and that after his discharge, respondents also threatened to dismiss Gerardo Cruz and Victor Torio, president and vice-president of the Association.

Answering the complaint, the herein petitioners, thru counsel, denied the charge of unfair labor practice and as special defenses alleged that the separation of Eulogio P. Flores was justified, and that the filing of the complaint by an acting prosecutor of the Industrial Court was violative of the law on due process. The issues having thus been joined, the case was assigned for hearing. Thereafter, Atty. Pedro Perez, one of the examiners, submitted his report. After examining the record, Associate Judge Emilio C. Tabigne of the Industrial Court, found the findings of fact and conclusions arrived at by Mr. Perez in his report to be fully supported by the evidence, and adopting the same, rendered decision finding the company and its manager guilty of unfair labor practice as charged and ordering them "to cease and desist therefrom and to reinstate immediately Eulogio P. Flores to his former position, with back salaries from the date he was discharged until he is fully reinstated, less whatever earnings he might have received elsewhere during his discriminatory lay-off."

Not satisfied, the respondents filed a motion for reconsideration and new trial, alleging that the decision is contrary to law and the evidence adduced at the trial. They also alleged that after the case had been submitted for decision, the company was constrained to disband its personnel in its radio and refrigerator departments as the Central Bank banned the importation of radios and did not grant to it dollar allocations for the importations of refrigerators (both of which items constituted the great bulk of the company's business during the employment of Flores), so that to recreate the former position of Flores as credit investigator-collector pursuant to the decision to reinstate him would not only be unjustifiable but entirely unjust. Finding the motion meritorious, the court en

banc, under date pn May 10, 1957, resolved to remand the record of the case to the trial court for the reception of additional evidence.

A hearing was accordingly conducted, this time through Hearing Examiner Mariano Tuason. After the parties had submitted memorandum and reply memorandum in support of their respective positions, the Industrial Court in an order dated November 14, 1958 affirmed its finding that the respondents were' guilty of the unfair labor practice acts complained of and that the motivating factor that led to the dismissal of Eulogio Flores was his union activities. Observing, however, that the business of the company had suffered a recession and that its collectible accounts had suffered a sharp and continuous decline in view of the banning of the importation of finished radio and refrigerator, the court modified its previous decision by eliminating therefrom its order to reinstate Flores and merely requiring the company to pay him back wages from July 10, 1954 to June 30, 1957, inclusive, less whatever he may have earned within said period. After the lower court en banc denied their final motion for reconsideration, the company and its manager brought the case to this Court for review.

Petitioners in the first place question the manner in which the prosecution of the case had been conducted, alleging that with the filing of the complaint by the very same acting prosecutor of the Industrial Court who conducted the preliminary investigation, the reception of evidence by hearing examiners of the same court, and the adoption by Judge Tabigne of the report of Hearing-Examiner Pedro Perez, the said Industrial Court assumed the role of accuser, prosecutor and judge at the same time. We find the objection to be without legal basis. The procedure followed by the Industrial Court was in accordance with section 5(b) of the Industrial Peace Act (Republic Act No. 875), which reads In part as follows:

"\* \* \* Whenever it is charged by an offended party or his representative that any person engaged or is engaging in any such unfair labor practice, the Court or any agency or agent designated by tie Court must investigate such charge and shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect and containing a notice of hearing before the Court or a member thereof, or before a designated Hearing Examiner at the time and place fixed therein not less than five nor more than ten days after serving the said complaint. \* \* \*."

Under the above legal provision, it is apparent that the Court of Industrial Relations, in the exercise of its investigatory powers, in unfair labor practice cases, may designate its acting prosecutor to conduct an investigation of the charges filed by the aggrieved party, and later have the complaint filed on the basis of the result of said investigation, requiring the respondent to file his answer and then hear both parties thru designated hearing examiners. Such procedure has been sanctioned by this Court in the case of Natioinal Printing Workers vs. Asia Printing, et al. (99 Phil., 589; 52 Off. Gaz., [12] 5858). It is true that the prosecutors and hearing examiners are officers of the court. Their functions and duties as such are, however, well defined in the law and their findings are not conclusive upon the Industrial Court, which has the discretion to accept or reject them. There is, therefore, no reason to fear that the parties who undergo trial under the procedure as above stated are denied the constitutional guarantee of due process.

The fact that the decision rendered by the court was based upon the report of Hearing Examiner Perez who heard the evidence only in part is of no moment, for the court below studied and examined not only the evidence received by said hearing examiner but also that presented before the others and found that the findings and conclusions contained in the report conform to its own. This court has already ruled in the case of Indias vs. Philippine Iron Mines, Inc. (101 Phil., 297; 54 Qff. Gaz., [6] .1817), that "where the Court of Industrial Relations approved the report of the hearing examiner after a perusal of the record of the case, this pre-supposes that it had examined the evidence and found no justification in modifying his findings and conclusions. It is not necessary for the court to make fn the order its own discussion of the evidence or its own findings of fact."

Petitioners also contend that the Industrial Court erred in awarding back wages to respondent Eulogio P. Flores because during his employment he used company time for his private interest. To support this contention, petitioners cite the testimony given by said respondent's wife in Civil Case No. 24387 of the Court of First Instance of Manila that during the period from August, 1953 to July, 1954, her husband helped her at their store in Divisoria. Said testimony, however, was not admitted as evidence by the lower court, and we think correctly, for the witness was not presented in court and there is no showing that she is deceased, or out of the Philippines, or unable to testify (Sec. 37, Rule 123, Rules of Court.). At any rate, assuming that respondent Eulogio P. Flores, during his employment with the company, actually helped his wife in the latter's business, it has not been shown that this had in any way adversely affected the work of said respondent as credit investigator-collector. As a matter of fact, the said respondent was once given by the company a reward for his good work and efficiency.

Neither may it validly be argued that the recession in the business of the company should defeat respondent Eulogio P. Flores' right to back wages. The unfavorable conditions in the company's business and the consequent reduction of its collectible accounts, as held by the lower court, may not justify reinstatement, but they certainly are not sufficient grounds to deny back wages to respondent Flores who was illegally dismissed on account of union activities.. To hold otherwise would render the provisions of the Industrial Peace Act on unfair labor practice nugatory.

Wherefore, the decision and order of the Court of Industrial Relations are affirmed, with costs against the petitioners.

Paras, C.J., Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

Decision and order affirmed.

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