

**NEW FILIPINO MARITIME AGENCIES, INC., PETITIONER, VS.
EDGARDO S. RIVERA, OSCAR M. TORRES, AND THE EXECUTION ARM
OF THE NATIONAL LABOR RELATIONS COMMISSION,
RESPONDENTS.**

G.R. Nos. L-45359-60. June 15, 1978

Ponente: FERNANDO, Acting C.J.

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FERNANDO, Acting C.J.:

This certiorari proceeding arose from a complaint for illegal dismissal filed with the National Seamen Board by respondent Edgardo S. Rivera[1] against petitioner New Filipino Maritime Agencies, Inc. It was assigned to respondent Oscar M. Torres, Chief of the Legal Service, National Seamen Board.[2] Petitioner in the meanwhile likewise filed a complaint against respondent Rivera for habitual drunkenness which allegedly was the cause of the termination of his employment.[3] Then came on August 19, 1976 the decision of respondent Oscar M. Torres, the dispositive portion of which reads as follows: "In view of the foregoing, the Board finds the Companies (New Filipino Maritime Agencies, Inc. and Rio Venture Shipping Co., S.A.) guilty of illegal dismissal and non-payment of allotment, wages and bonus; and orders them (New Filipino Maritime Agencies, Inc. and Rio Venture Shipping Co., S.A.), jointly and severally, to pay Rivera (Edgardo Rivera): a) the amount of US \$1,495.00 or its equivalent in Philippine Currency; b) the amount of US \$149.50 or its equivalent in Philippine Currency, as for and attorney's fee [sic]. The counter charges filed by the companies against Rivera in NSB Case No. 709-75 are hereby dismissed for lack of merit." [4] Petitioner within the reglementary period filed his Motion for Reconsideration with the Chairman of the National Seamen Board.[5] Instead of such agency taking action on the matter, respondent Oscar M. Torres, as hearing officer, denied such petition for reconsideration on the ground of its being pro forma in character.[6] What is more, notwithstanding the motion of petitioner stressing that respondent Torres could not by himself resolve a pending motion for reconsideration, the latter "issued a writ of execution in the aforesaid case and indorsed the same to the Execution Arm of the National Labor Relations Commission." [7] There was an appeal to the Secretary of Labor to have such writ of execution issued by respondent Torres declared null and void, but he did not take any action for alleged lack of authority.[8] Hence this petition. This Court required comment from the respondents and at the same time issued a restraining order.

Respondent Edgardo S. Rivera submitted his comment, sustaining the action taken by respondent Torres. Thereafter, Acting Solicitor General Vicente V. Mendoza[9] of the Office of the Solicitor General, filed this Manifestation in lieu of comment: "Come Now public respondents, by the undersigned counsel, and to this Honorable Court respectfully manifest that, after a conscientious study of the legal issues involved in the case, they do not interpose any objection in having the decision of the Secretariat of the National Seamen Board, represented by public respondent Hearing Officer Oscar M. Torres and Executive Director Crescencio Siddayao, dated August 19, 1976, in NSB Case No. 642-75 and NSB Case No. 709-75 be reviewed on the merits by the National Seamen Board itself and to the holding in abeyance of the writ of execution issued herein pending final determination of the said cases by the National Seamen Board." [10]

This manifestation of Acting Solicitor General Vicente V. Mendoza is impressed with a highly persuasive character. Public respondents, presumably heeding advice of counsel, appear to be fully cognizant of the infirmity of their actuation challenged in this petition. If the very same official holding a subordinate position could pass upon a motion for reconsideration or prevent the administrative agency as a collective body from reviewing his order or decision, then the appeal becomes a useless formality. It is reduced to an idle ceremony. That would be to condone unfairness and foster injustice. There would thus be a denial of procedural due process. From the leading case of *Ang Tibay v. Court of Industrial Relations*,^[11] a 1940 decision, the opinion being penned by Justice Laurel, it has been the constant holding of this Court that there must be fidelity to its command. Otherwise, the action taken by an administrative office or agency calls for nullification. It is true that this Court, conformably to the constitutional mandates of social justice^[12] and protection to labor,^[13] has displayed and continues to display the utmost receptivity to the claims of labor. Nonetheless, it has equally seen to it that while agencies entrusted with the implementation of labor statutes is accorded freedom "from the rigidities of procedure, [they are not free to] ignore or disregard the fundamental and essential requirements of due process."^[14]

WHEREFORE, this petition for certiorari is granted, the order of respondent Torres denying the motion for reconsideration is nullified and set aside, and the writ of execution thereafter issued as a result of such denial of the motion for reconsideration is likewise nullified, set aside and declared to be without any force or effect. In accordance with the manifestation of public respondents, the decision of respondent Torres is to be reviewed on its merits by the National Seamen Board itself as promptly as circumstances permit. This decision is immediately executory. No costs.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] Petition, par. 2.

[2] *Ibid*, par. 3.

[3] *Ibid*.

[4] *Ibid*, par. 4.

[5] *Ibid*, par. 5.

[6] *Ibid*, par. 6.

[7] *Ibid*, par. 9.

[8] *Ibid*, par. 13.

[9] He was assisted by Assistant Solicitor General Reynato S. Puno and Solicitor Jesus V. Diaz.

[10] Manifestation of June 3, 1977, 1.

[11] 69 Phil. 635.

[12] According to Article II, Section 6 of the Constitution: "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits."

[13] According to Article II, Section 9 of the Constitution: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and

regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

[14] Cf. *Philippine Maritime Industrial Union v. Court of Industrial Relations*, L-37003, October 24, 1974, 60 SCRA 287.

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