

FORTUNATO DA. BONDOC, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, PHILIPPINE NATIONAL RAILWAYS AND LIBERTADO S. CASTRO, RESPONDENTS.

G.R. No. L-33955. January 26, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This is a petition for review of the order dated January 11, 1971 of the Court of Industrial Relations (CIR for short), dismissing the charge of unfair labor practice against the private respondents in Case No. 4927-ULP, as well as the Resolution dated March 2, 1971 of that court, denying petitioner's motion for reconsideration.

On January 10, 1968, a complaint for unfair labor practices under Section 4(a), sub-sections 4 and 5 of Republic Act No. 875 was filed by the Acting Prosecutor of the CIR against the private respondents based on the complaint of petitioner Fortunato Da. Bondoc charging the private respondents with having discriminated against him in the giving of promotions to its employees because he was not a member of any labor organization. Bondoc prayed for a cease and desist order against the respondents and for his promotion to the position of General Road Foreman effective July 1, 1962 with the corresponding salary and benefits.

The private respondents denied the material allegations of the complaint and, on July 1, 1968, filed a motion to dismiss the complaint for failure to allege a valid cause of action. The CIR deferred the resolution of the motion until after it had heard the merits of the case.

Petitioner presented evidence in the CIR to show that, in derogation of his seniority, rank, competence, and fitness, and because he did not belong to any labor union, private respondents discriminated against him by promoting and appointing Simeon Mendoza on July 1, 1962 to the position of Road Foreman of the Engineering Department, instead of him. Again, on January 1, 1965, Simeon Mendoza, instead of petitioner, was promoted to the position of General Road Foreman of the Engineering Department. Private respondents paid no heed to petitioner's protests against such discrimination. Instead of promoting him, the private respondents assigned him at the Hearing Committee without per diems. When Simeon Mendoza retired as General Road Foreman, private respondents appointed someone else - Simeon Malinay - to the vacant position, by-passing the petitioner. Finally, private respondents subdivided the Central Division of the Engineering Department, thereby reducing petitioner's area of responsibility. Petitioner alleged he had exhausted all his administrative remedies in vain.

Answering the complaint, the private respondents alleged that petitioner was not next-in-rank to the position of Road Foreman; that based on individual work merits and the Revised Civil Service Rules, Mendoza and Malinay obtained higher ratings than the petitioner; that Mendoza was promoted to Assistant General Foreman because he was next-in-rank; that Simeon Malinay was next-in-rank to Simeon Mendoza; that when the position of General Road Foreman became vacant, Mendoza was recommended for the position but his retirement precluded his appointment thereto; that the position of General Road Foreman was later abolished; that the reorganization was for the best interest of the company; that contrary to petitioner's allegation, his transfer to the Hearing Committee

was done at his own request. As for per diems, he was paid for the first month, but he was not paid per diems for services rendered in excess of one month because it would have been contrary to law, rules and regulations.

As aptly put by the CIR, the issue in this case is whether or not the private respondents were guilty of unfair labor practice under Section 4(a)(4) of Republic Act 875, otherwise known as the Industrial Peace Act, which provides:

"SEC. 4. Unfair Labor Practices. -

"(a) It shall be unfair labor practice for an employer:

"xxx xxx xxx

"(4) To discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; x x x (As amended by R.A. No. 3350, approved June 17, 1961)."

In dismissing the charge of unfair labor practice, the CIR found that the alleged discriminatory acts against the petitioner did not arise from union membership or activity because he was not in fact a union member.

Petitioner's allegation that he was discriminated against to force him to join a labor organization is unconvincing since no specific union was mentioned in his complaint. It is unbelievable that the private respondents would harass and oppress him to force him to join any labor union for We do not see how that can possibly be advantageous to the former.

The petition does not show how or why the CIR Order allegedly conflicts with the evidence presented at the trial. We have, time and again, ruled that findings of fact of the CIR are accorded full respect by the Supreme Court if supported by substantial evidence (*Community Sawmill Company vs. CIR*, 89 SCRA 164; *Dy Keh Beng vs. International Labor & Marine Union of the Phil.*, 90 SCRA 162; *Lirag Textile Mills, Inc. vs. Blanco*, 109 SCRA 97). In this case, We find no reason to depart from that doctrine.

WHEREFORE, the petition for review is denied for lack of merit.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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