

SAN BEDA COLLEGE, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND NATIONAL LABOR UNION, RESPONDENTS.

G.R. No. L-7649. October 29, 1955

Ponente: PADILLA, J.

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PADILLA, J.:

On 16 December 1952 the National Labor Union in behalf of more than 30 members working with the San Beda College made a demand upon the latter for increase of wages and other concessions. As the management of San Beda College failed to grant the demands, on 20 January 1953 a petition was filed with the Court of Industrial Relations praying that the demands be granted effective 16 December 1952 (Annex A). On 24 January 1953 the respondent San Beda College moved for the dismissal of the petition on the ground that 30 out of a total of about 45 or 46 members of the petitioner union in the court below withdrew their membership from it, thereby reducing the number of members of the petitioner union to less than 30 (Annex B). On 1 August 1953 this motion was denied for the reason that some of the signers of withdrawal from the union membership (Exhibit 1) signed it in the afternoon of 20 January 1953, whereas this petition was filed on that date at 9:15 a.m. (Annex C), and because the Court of Industrial Relations cannot be deprived of jurisdiction once attached by the withdrawal or severance of union members from the petitioning union. On 10 August 1953 a motion for reconsideration was filed by the respondent upon the ground that the subject matter of the petition is neither an industrial nor agricultural dispute and the number of employees involved did not exceed thirty (Annex F). On 28 September 1953 the respondent San Beda College moved for a rehearing on the motion to dismiss and at the same time prayed for leave to amend the motion by setting up an additional ground, to wit: that the unsatisfied demands submitted or brought to court by the petitioning union do not constitute an industrial or agricultural dispute, and hence not within the purview of section 4, Commonwealth Act No. 103, as amended by Commonwealth Acts Nos. 254 and 559 (Annex D). On 5 October 1953 Associate Judge V. Jimenez Yanson denied the motion for rehearing, because the ground of the motion to dismiss had been passed upon and denied on 1 August 1953 and the denial was affirmed by the Court in banc on 17 September 1953. As to the second ground, as the record was bare of any evidence to show the nature of the business of the respondent San Beda College, the Court was of the opinion that in the interest of justice it was necessary that it be given an opportunity to submit such evidence as it may deem necessary to support and prove its claim, and for that reason the Court set the hearing of the case on 31 October 1953 at 9:00 a.m. (Annex E). On 12 February 1954 the motion for rehearing on the motion to dismiss on the ground of lack of jurisdiction was denied and the Court set the case for hearing on its merits (Annex H). On 20 February 1954 a motion for reconsideration was filed upon the same grounds as those already alleged (Annex I) and on 9 March 1954 the Court en banc denied the motion (Annex J). The San Beda College brought the case to us by a petition for a writ of certiorari seeking the reversal and setting aside of the orders of 1 August 1953, 12 February and 9 March 1954.

If the question of jurisdiction were not the main ground for this petition for review by certiorari, it would be premature because it seeks to have a review of an interlocutory order. But as it would be useless and futile to go ahead with the proceedings if the court below had no jurisdiction this petition was given due course.

The respondent labor union in this case for certiorari denies the allegations in paragraphs 2, 8 and 14 and admits those of the other paragraphs of the petition. As to the allegations of the petition in paragraphs 2 and 8, the labor union avers that the petitioner is engaged in the business of educating boys and men for which it charges a fee, and it is also engaged in the business of giving board and lodging to boys and men for which it also charges a fee; and further states that because of these operations it made considerable profits. As to those in paragraph 14 of the petition, the respondent labor union avers that the order and resolution appealed from are in accordance with law, it being a fact that the petitioner is engaged in industrial pursuit and that by reason thereof it has an industrial dispute with its employees, which comes under the jurisdiction of the Court of Industrial Relations.

The denial of the first ground of the motion to dismiss is correct, because at the time of the filing of the petition in the court below, there were more than 30 members of the petitioning union.[1] The evidence shows that the withdrawal of the members was made in the afternoon of 20 January 1953, or subsequent to the filing of the petition. In its order of 12 February 1954 (Annex H), the Court of Industrial Relations says:

The evidence of the respondent College in support of its motion to dismiss on this new ground, tends to show that the San Beda College is an educational institution founded by the Benedictine Order in the Philippines for the sole purpose of which is the education of young men. This claim is supported by respondent's exhibits "A," "B" and "C." As an educational institution, it is devoted to educational teaching and preparation of young men to prepare them for life and for better citizenship. It is not founded and conducted for gaining profits. It is not an industrial pursuit unlike private business devoted solely to the realization of profits for its financial investment. It is also shown that the Benedictine Order that conducts the respondent institution does not derive any compensation or remuneration for their services because the rules and laws of the religious order do not allow their members to profit from the fruits of their industry or effort. This is shown in exhibits "A" and "C."

The respondent maintains a school known as the San Beda College; and, in addition to this school, the order maintains a dormitory wherein students or pupils are allowed to board and lodge subject to whatever rules and regulations the religious order prescribes for the boarders. In the conduct of this college and its dormitory, respondent does not realize much profit if it ever does. This is shown in exhibits "D" to "O"—respondent, inclusive. The college proper and the dormitory employ several laborers performing odd jobs assigned to them by the institution, like cleaning school premises, etc.

On the other hand, the evidence of the petitioner tends to show that the several employees and/or laborers affiliated with the National Labor Union whose names appear in exhibits "B," "B-1," "B-2," "B-3," "B-4," "B-5," and "B-6" have been employed and/or presently employed by the respondent religious college in various categories as janitors, etc. and performed other odd jobs required of them by the institution. (Order of 12 February 1954, Exhibit H.)

On the second ground of the motion to dismiss, in *U. S. T. Hospital Employees Association vs. Sto. Tomas University Hospital*, G. R. No. L-6988, 24 May 1954, this Court held:

* * * No existe alegacion ni en la solicitud presentada en la causa No. 790-V, ni en el presente recurso, ni existen pruebas de que el Hospital de la Universidad de Sto. Tomas se haya establecido con el proposito exclusivo de marginar ganancias y repartir dividendos; por tanto, no pueden ser considerados como "industrial employment" los cuantos ocupados por los miembros de la recurrente. Si no es "industrial employment", tampoco debe considerarse "industrial dispute" la controversia entre el hospital y los miembros de la recurrente. La reclamacion no esta, por tanto, bajo la jurisdiccion del Tribunal Industrial como no lo esta la demanda de ios que trabajan en el servicio domestico.

The operation and maintenance of the school by the herein petitioner not being for profit or for the purpose or gain, people working in said college cannot be deemed to be industrial employees.[2] Any controversy or dispute they may have with the management of the school in connection with or arising out of their employment does not

come within the purview of Commonwealth Act No. 103, as amended by Commonwealth Acts Nos. 254 and 559.

The petition for a writ of certiorari is granted. The orders of 1 August 1953, 12 February and 9 March 1954 are set aside and the petition of the National Labor Union is dismissed, without costs.

Bengzon, Montemayor, Reyes, A., Jugo, Bautista Angelo, Labrador, and Reyes, J.B.B., JJ., concur.

[1] Manila Hotel Employees Association vs. Manila Hotel Co., 73 Phil. 374, 389; Mortera vs. Court of Industrial Relations, 45 Off. Gaz. 1715, 1718; Pepsicola, Inc. vs. National Labor Union, 46 Off. Gaz. Supp. No. 1, pp. 130, 134-135; San Miguel Brewery vs. Court of Industrial Relations, G. R. No. L-634, 28 April 1952; Luzon Brokerage Co. vs. Luzon Labor Union, 48 Off. Gaz. 3883, 3887; La Campana Coffee Factory, Inc. vs. Kaisahan Ng Mga Manggagawa sa La Campana Coffee Factory, 49 Off. Gaz. 2300, 2304; PLASLU vs. Court of Industrial Relations, 49 Off. Gaz. 3859, 3863; Standard Vacuum Oil Co. vs. Orson, G. R. No. L-7540, 25 May 1955.

[2] Section 2 of Commonwealth Act No. 559 amending section 4 of Commonwealth Act No. 103, as amended by Commonwealth Act No. 254; section 22 of Republic Act No. 772.

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