

MINDANAO MOTOR LINE, INC., ET AL., PETITIONERS, VS. HON. COURT OF INDUSTRIAL RELATIONS, ET AL., RESPONDENTS. ABOITIZ & CO., INC., PETITIONER, VS. HON. COURT OF INDUSTRIAL RELATI...

G.R. Nos. L-18418-19. November 29, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On May 5, 1955, the Mindanao Federation of Labor, together with some laid-off employees, filed a complaint for unfair labor practice against the Mindanao Motor Line, Inc., its General Manager Jesus Moraza and Resident Manager Enrique Ponce, as well as against Aboitiz & Co., Inc., charging them with having interfered with the complaining employees in the exercise of their right to organize as guaranteed by the Magna Carta of Labor.

Respondents, in their answer, stated that the Mindanao Motor Line, Inc. is a corporate entity distinct and separate from the Aboitiz & Co., Inc., and that if the operation of the Cotabato-Parang-Iligan line was suspended on February 1, 1955, it was merely to protect the interest of the Mindanao Motor Line, Inc. which had incurred heavy losses in its operation, which suspension resulted in the laying off of the employees working on that line. They further averred that they never interfered with the union activities of the complaining employees who were laid off only for the above reason and were given due notice of their separation and payment of their separation pay equivalent to one month salary.

After due trial, the Court of Industrial Relations, in an order issued on January 4, 1961, ordered respondent Mindanao Motor Line, Inc. to pay back wages to the laid-off employees without reinstatement from February 1, 1955, the date of separation, up to and until June 10, 1953, the date prior to the cancellation of the certificate of public convenience covering the line that was suspended. The full tenor of the dispositive part of the order reads as follows:

"IN VIEW OF THE FOREGOING, the Court believes that the respondents are guilty of the unfair labor practice as charged, thus violating Sec. 4(a), subsection 1 and 4 of R.A. No. 875. Due to the fact that the certificate of public convenience of respondent Mindanao Motor Line, Inc., which has been issued for the operation of its TPU service has already been cancelled on June 11, 1958, as per Exh. '17', the respondent company is hereby ordered to Pay complainants to the exclusion of Antonio Actub, Orlando Siasico, Feliciano Legaspi and Nieves Mendoza, back wages from February 1, 1955 the day of dismissal up to and until June 10, 1958, the day before the cancellation of the certificate of public convenience without the necessity of reinstatement."

Both complainants and respondents filed a motion for reconsideration of the above order, complainants inviting attention to the fact that, if they were to be accorded back wages the ones responsible would be not only the Mindanao Motor Line, Inc. but all the respondents jointly and severally. Both motions were denied. However, alleging that a clerical error has been committed in issuing the dispositive part of the order because not all the

respondents were included in the payment of the pecuniary liability, the industrial court modified said dispositive part so as to read as follows:

"* * * the corrected portion should read in the following manner: 'the respondents, Mindanao Motor Line, Inc., and/or Enrique Ponce, Aboitiz and Co. and/or Jesus Moraza, are hereby ordered to pay complainants to the exclusion of Antonio Actub, Orlando Siasico, Feliciano Legaspi and Nieves Mendoza, back wages from February 1, 1955 the day of dismissal up to and until June 10, 1958, the day before the cancellation of the certificate of public convenience without the necessity of reinstatement.' "

Respondents again filed a motion for reconsideration, and the same having been denied, they interposed separately a petition for review. The petition filed by Mindanao Motor Line, Inc., with respondents Enrique Ponce and Jesus Moraza, was docketed as G. R. No. L-18418, whereas the petition filed by Aboitiz & Co., Inc. was docketed as G. R. No. L-18419. Because of their close interrelation, these two petitions were consolidated in one single decision.

It is contended that respondents cannot be ordered to pay back wages to the complaining employees for the reason that the operation of the transportation line where they were employed has been suspended and the certificate of public convenience that was issued for such operation has been cancelled by the Public Service Commission. As a matter of fact, they contend, the reinstatement of said complaining employees was not ordered by the court for the same was not possible because the operation of the line where they were employed was never resumed. In short, they argue, if no reinstatement can be ordered no back wages can be granted because "from the phraseology of the law the payment of back wages presupposes an accompanying order for reinstatement." And continuing with his argument, counsel says: "An award for the payment of back wages necessarily implies reinstatement, or, at least, the possibility of reinstatement of the discharged employees. It is implicit then that when the court does not or can not order the reinstatement of employees, there is absolutely no factual or legal basis for the payment of back wages."

We disagree. While as a rule the payment of back wages follows as a necessary consequences an order for reinstatement, it does not follow that if reinstatement can not be ordered, as when the service is discontinued, the employees illegally laid off should be deprived of the wages they are entitled to, as should be the case when the company or employer is found guilty of unfair labor practice. This is the situation that obtains herein. The industrial court found respondents guilty of the unfair labor practice imputed to them and so it is but fair that they be paid their wages for the period they had been deprived of their employment.

We find, however, merit in the contention that respondent Enrique Ponce and Jesus Moraza who were included as such should not be made solidarity responsible for the payment of back wages, together with their employer the Mindanao Motor Line, Inc., for it clearly appears from the record that they were merely agents who acted within the scope of their corporate positions as resident manager and general manager, respectively, of the aforesaid company. Since they were impleaded merely as officers of the company and have acted only as such within the scope of their authority, if any one should be held responsible for the consequence of their acts as such officers it is their employer, unless of course it is shown that they have acted negligently or in bad faith. The evidence discloses nothing in this respect. It is a well-known principle of law that an agent who acts in behalf of a disclosed principal within the scope of his authority cannot be held liable to third persons (Article 1897, new Civil Code; *Banque Generate Belge, et al. vs. Walter Bull & Co., Inc., et al.*, 84 Phil., 164; 47 Off. Gaz., 138; *Zialcita-Yuseco vs. Simmons*, 97 Phil., 487).

We also find that of the 71 employees who were laid off on February 1, 1956 because of the alleged unfair labor practice, 31 were re-employed on other lines operated by the company. If this is true, which apparently is, because it is not denied, it is unfair to order the company to pay them back wages even during the period of their

re-employment, for the result would be that they will receive double compensation during that period. The order should, therefore, be modified in the sense of ordering the payment of back wages only from the date of their separation to the date of their re-employment.

We likewise notice that the industrial court did not make any provision relative to the set-off or compensation of whatever wages or earnings the complaining employees may have obtained during the period of their separation, which omission should be rectified, for, as this Court has aptly said, "In estimating the damages in an action of this character for the period of time already past the employer may show in mitigation of damages that the discharged employees obtained renumeration elsewhere or that in the exercise of due diligence he might have obtained such employment.[1]

Finally, we find no merit in the contention that respondent Aboitiz & Co., Inc. should not have been included as such not being the operator nor financier of the Mindanao Motor Line, Inc., for there is enough evidence on record to show the connection between the two companies. In the first place, having been included as respondent, Aboitiz & Co., Inc. did not file any answer denying the acts constituting the unfair labor practice charged one of which is the fact that the Land Transportation Division of Aboitiz & Co., Inc., of which Jesus Moraza is the general manager, controls and supervises the management and operation of the Mindanao Motor Line, Inc. In the second place, the record of the case discloses that the central office of the Mindanao Motor Line, Inc. and the office of the Aboitiz & Co., Inc. are located in the same place and have the same postal address, namely, P.O. Box 65. It also appears that the thing that sparked the separation of the complainants is the letter of one Ramon Aboitiz, apparently the manager of Aboitiz & Co., Inc., where it is shown that said company has suffered a heavy loss because of the funds it had advanced to the Mindanao Motor Line, Inc., for which reason he recommended that the operation of the line in question be suspended. Indeed, the following argument advanced by the counsel of respondent court is very impressive:

"The fact that Ramon Aboitiz admits that the Aboitiz & Company 'had advanced the funds, * * * for the operation of respondent Mindanao Motor Line, Inc.; The fact that he had even decided for Aboitiz & Company to discontinue this financial assistance; and the further fact that the common principal address of the principal actors responsible in the dismissal of respondent-workers herein is P.O. Box 65, Cebu City, all show that Aboitiz & Company, as alleged in the complain a quo, controls and supervises the management and operation of respondent Mindanao Motor Line, Inc. These facts were dug out from the records of the case a quo to show how truly unfounded is petitioner-appellant's claim that there is a '* * * total and complete absence of any evidence supporting this charge; * * *.' "

Wherefore, the order of respondent court dated March 8, 1961 is hereby amended with regard to the following respects: (1) the 31 employees who were re-employed should be given back wages only from February 1, 1955, the day of dismissal, up to the date they were re-employed; (2) respondents Enrique Ponce and Jesus Moraza should not be made responsible for the back wages that were ordered paid to the complaining employees; (3) respondent companies are hereby authorized to set off from the back wages they were ordered to pay whatever earnings the complaining employees may have obtained during the period of their separation. In all other respects, the said order is hereby affirmed. No pronouncement as to costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

[1] Garcia Palomar vs. Hotel de France Co., 42 Phil., 660; See also MaCleod & Company of the Philippines vs. Progressive Federation of Labor, 97 Phil., 205; 51 Off. Gaz [6] 2907; Potenciano vs. Estefani, L-7690, July 27, 1955; Western Mindanao Lumber Co. vs. Mindanao Federation of Labor, 101 Phil., 200; Philippines Air Lines,

Inc. vs. Philippine Air Lines Employees Association, 108 Phil., 1129; 60 Off. Gaz. [50] 8269.

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