

**NATIONAL ORGANIZATION OF TRADE UNIONS (NORTU),
PETITIONER, VS. HON. SECRETARY OF LABOR, HON. DIRECTOR,
BUREAU OF LABOR RELATIONS AND THE ASSOCIATED
LABOR UNIONS (ALU), RESPOND...**

G.R. No. L-42561. May 31, 1979

Ponente: FERNANDO, Actg. C.J.

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FERNANDO, Actg. C.J.:

The specific question raised in this certiorari and prohibition proceeding is whether or not respondent Director of the Bureau of Labor Relations[1] could order a certification election if, as alleged by petitioner Union, it is the recognized bargaining agent and is about to conclude a renewed bargaining agreement with the employer, the Manila Rubber Corporation.[2] The matter was elevated to this Court, as respondent Director of the Bureau of Labor Relations, in the assailed order, held: "The Labor Code explicitly provides for only two instances where a petition for certification is barred, namely: An election held within the past twelve months and the existence of a certified collective agreement. None of the foregoing is applicable hereto." [3] The correctness of such a ruling was sustained in the Answer of Solicitor General Estelito P. Mendoza.[4] It was made clear that there was neither a collective bargaining agreement in existence and that no certification election had been conducted during the last twelve months. Respondent Union, therefore, was within its right in filing a petition for certification election, supported as it was by the written consent of more than 30% of the employees in the bargaining unit. It was further pointed out in such Answer[5] that the pendency of negotiations to conclude a new collective bargaining agreement is not a bar to such a petition for certification election.[6]

The facts are not in dispute. Petitioner labor Union, at the time of such petition for certification election, being the duly recognized exclusive bargaining agent, was in the process of negotiation leading to a new collective contract between it and the employer.[7] That was, to repeat, the basis of its motion to dismiss when the petition for certification election was filed.[8] Both the Med-Arbitrator of the Bureau of Labor Relations as well as respondent Director of such bureau ruled against it, for as specified in the appealed order, the requisites necessary for such certification were duly satisfied. It moved to reconsider, but failed.¹⁰ Hence this petition.

It is quite apparent then why the order for certification election must be upheld.

1. The controlling provision of the Labor Code reads as follows: "Any petition for certification election filed by any legitimate labor organization shall be supported by the written consent of at least thirty percent (30%) of all the employees in the bargaining unit. Upon receipt and verification of such petition, it shall be mandatory for the Bureau to conduct a certification election for the purpose of determining the representative of the employees in the appropriate bargaining unit and certify the winner as the exclusive collective bargaining representative of all the employees in the unit."¹¹ The law cannot be any clearer. The 30% requirement was fully met. Such a finding of fact is well-nigh conclusive on this Court.¹² It becomes, therefore, in the language of the law, "mandatory for the bureau to conduct a certification election * * *." Moreover, the assailed order pointed out that there was no

obstacle to such a petition for certification, no election having been held the past twelve months and no certified collective agreement being in existence. When respondent Director of the Bureau of Labor Relations, therefore, acted as he did, he was merely performing a duty imposed on him by law. This is not the first time that a labor union, understandably concerned as to whether it could continue as the exclusive bargaining agent, had sought to prevent the holding of a certification election. The response was invariably in the negative.¹³ For certainly, it would be unwarranted to nullify an order of the Director of the Bureau of Labor Relations based on a plain and explicit command of the law.

2. It cannot be stressed sufficiently that the Bureau of Labor Relations as an agency of the executive branch is precisely charged with the responsibility of faithfully executing the law. Where, as in this case, there is no ambiguity in the applicable provision of the Labor Code, all that could have been done was to apply it. That was what respondent Director did. It would be unwarranted for him to act in any other way. There was no room for interpretation. Such a provision speaks unequivocally. There was the peremptory need on the part of the official concerned to yield it obedience.¹⁴

3. The specific question raised in this certiorari and prohibition proceeding as to whether or not respondent Director of the Bureau of Labor Relations could order a certification election if, as alleged by petitioner Union, it is the recognized bargaining agent and is about to conclude a renewed collective bargaining agreement with the employer, must be answered in the affirmative, assuming that the requisites, set forth in Article 258 of the Labor Code are duly met.

WHEREFORE, this petition for certiorari and prohibition is dismissed for lack of merit. This decision is immediately executory, and the certification election ordered must be held forthwith. The restraining order issued by this Court is hereby lifted and set aside and declared to be without any force or effect.

Antonio, (Acting Chairman), Concepcion, Jr., and Santos, JJ., concur.

Aquino, J., concurs because petitioner's CBA with the Manila Rubber Corporation expired on May 31, 1975 and petitioner's right to represent the employees as a collective bargaining agent was seriously assailed by the Associated Labor Unions, which filed a petition for certification election on July 1, 1975. Within twelve months before that date, there had been no certification election.

Abad Santos, J., did not take part.

[1] The other respondents are the Secretary of Labor and the Associated Labor Unions.

[2] Petition, 4.

[3] Ibid, Annex H.

[4] He was assisted by Assistant Solicitor General Reynato S. Puno and Trial Attorney Joselito B. Floro.

[5] Answer, 4 and 5.

[6] Ibid, 5.

[7] Petition, pars. 4 and 7.

[8] Ibid, par. 8.

9 Ibid, par. 10.

10 Ibid, pars. 13 and 14.

11 Art. 258, Presidential Decree 442 (1974).

12 Cf. Antipolo Highway Lines v. Inciong, L-38532, June 27, 1975, 64 SCRA 441; Jacqueline Industries v. National Labor Relations Commission, L-37034, Aug. 29, 1975, 66 SCRA 397; Federacion Obrera v. Noriel, L-41937, July 6, 1976, 72 SCRA 24; Kapisanan ng mga Manggagawa v. Noriel, L-45475, June 20, 1977, 77 SCRA 414; Monark International, Inc. v. Noriel, L-47570-71, May 11, 1978, 83 SCRA 414; Associated Trade Unions v. Noriel, L-48367, January 16, 1979.

13 Cf. Federacion Obrera v. Noriel, L-41937, July 6, 1976, 72 SCRA 24; Today's Knitting Free Workers Union v. Noriel, L-45057, Feb. 28, 1977, 75 SCRA 450; Benguet Exploration Miners Union v. Noriel, L-44110, March 29, 1977, 76 SCRA 107; Kapisanan ng mga Manggagawa v. Noriel, L-45475, June 20, 1977, 77 SCRA 414; Monark International, Inc. v. Noriel, L-47570-71, May 11, 1978, 83 SCRA 414; National Mines and Allied Workers Union v. Luna, L-46722, June 15, 1978, 83 SCRA 607; Scout Ramon Albano v. Noriel, L-48347, Oct. 3, 1978, Federation of Free Workers v. Noriel, L-47182-83, Oct. 20, 1978.

14 Such a principle is traceable to the leading case of Lizarraga Hermanos v. Yap Tico, a 1913 decision, 24 Phil. 504. In the latest case where such a doctrine is reiterated, Kapisanan ng mga Manggagawa v. Manila Railroad Company, L-25316, Feb. 28, 1979, Gonzaga v. Court of Appeals, L-27455, June 28, 1973, 51 SCRA 381, was cited. In the opinion of such case, reference was made to twelve decisions starting from People v. Mapa, L-22301, Aug. 30, 1967, 20 SCRA 1164 and ending with Allied Brokerage Corp. v. Commissioner of Customs, L-27641, Aug. 31, 1971, 40 SCRA 555. These are the later cases: Espino v. Cleofe, L-33410, July 13, 1973, 52 SCRA 93; Minlay v. Sandoval, L-28901, Sept. 4, 1973, 53 SCRA 1; Vallongca v. Ariola, L-29226, Oct. 28, 1973, 53 SCRA 139; Jalandoni v. Endaya, L-23894, Jan. 24, 1974, 55 SCRA 261; Phil. National Railways v. Court of Industrial Relations, L-30942, May 31, 1974, 57 SCRA 302; Aquino Jr. v. Commission on Elections, L-40004, Jan. 31, 1975, 62 SCRA 275.

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