

BUREAU OF PRINTING, SERAFIN SALVADOR AND MARIANO LEDESMA, PETITIONERS, VS. THE BUREAU OF PRINTING EMPLOYEES ASSOCIATION (NLU), PACIFICO ADVINCULA, ROBERTO MENDOZA, PONCIANO ARGA...

G.R. No. L-15751. January 28, 1961

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is a petition for certiorari and prohibition with preliminary injunction to annul certain orders of the respondent Court of Industrial Relations and to restrain it from further proceeding in the action for unfair labor practice pending before it on the ground of lack of jurisdiction. Giving due course to the petition, this Court ordered the issuance of the writ of preliminary injunction prayed for without bond.

The action in question was—upon complaint of the respondent Bureau of Printing Employees Association (NLU), Pacifico Advincula, Roberto Mendoza, Ponciano Arganda and Teodulo Toleran—filed by an acting prosecutor of the Industrial Court against herein petitioners Bureau of Printing, Serafin Salvador, the Acting Secretary of the Department of General Services, and Mariano Ledesma, the Director of the Bureau of Printing. The complaint alleged that Serafin Salvador and Mariano Ledesma have been engaging in unfair labor practice by interfering with, or coercing the employees of the Bureau of Printing, particularly the members of the complaining association, in the exercise of their right to self-organization and discriminating in regard to hire and tenure of their employment in order to discourage them from pursuing their union activities.

Answering the complaint, the petitioners Bureau of Printing, Serafin Salvador and Mariano Ledesma denied the charges of unfair labor practices attributed to them and, by way of affirmative defenses, alleged, among other things, that respondents Pacifico Advincula, Roberto Mendoza, Ponciano Arganda and Teodulo Toleran were suspended pending result of an administrative investigation against them for breach of Civil Service rules and regulations; that the Bureau of Printing has no juridical personality to sue and be sued; that said Bureau of Printing is not an industrial concern engaged for the purpose of gain but is an agency of the Republic performing governmental functions. For relief, they prayed that the case be dismissed for lack of jurisdiction. Thereafter, before the case could be heard, petitioners filed an "Omnibus Motion" asking for a preliminary hearing on the question of jurisdiction raised by them in their answer and for suspension of the trial of the case on the merits pending the determination of such jurisdictional question. The motion was granted, but after hearing, the trial judge of the Industrial Court in an order dated January 27, 1959 sustained the jurisdiction of the court on the theory that the functions of the Bureau of Printing are "exclusively proprietary in nature" and, consequently, denied the prayer for dismissal. Reconsideration of this order having been also denied by the court en banc, the petitioners brought the case to this court through the present petition for certiorari and prohibition.

We find the petition to be meritorious.

The Bureau of Printing is an office of the Government created by the Administrative Code of 1916 (Act No.

2657). As such instrumentality of the Government, it operates under the direct supervision of the Executive Secretary, Office of the President, and is "charged with the execution of all printing and binding, including work incidental to those processes, required by the National Government and such other work of the same character as said Bureau may, by law or by order of the (Secretary of Finance) Executive Secretary, be authorized to undertake * * *." (Sec. 1644, Rev. Adm. Code.) It has no corporate existence, and its appropriations are provided for in the General Appropriations Act. Designed to meet the printing needs of the Government, it is primarily a service bureau and is obviously, not engaged in business or occupation for pecuniary profit.

It is true, as stated in the order complained of, that the Bureau of Printing receives outside jobs and that many of its employees are paid for overtime work on regular working days and on holidays, but these facts do not justify the conclusion that its functions are "exclusively proprietary in nature." Overtime work in the Bureau of Printing is done only when the interest of the service so requires (sec. 566, Rev. Adm. Code). As a matter of administrative policy, the overtime compensation may be paid, but such payment is discretionary with the head of the Bureau depending upon its current appropriations, so that it cannot be the basis for holding that the functions of said Bureau are wholly proprietary in character. Anent the additional work it executes for private persons, we find that such work is done upon request, as distinguished from those solicited, and only "as the requirements of Government work will permit" (sec. 1654, Rev. Adm. Code), and "upon terms fixed by the Director of Printing, with the approval of the Department Head" (sec. 1655, id.). As shown by the uncontradicted evidence of the petitioners, most of these works consist of orders for greeting cards during Christmas from government officials, and for printing of checks of private banking institutions. On those greeting cards, the Government seal, of which only the Bureau of Printing is authorized to use, is embossed, and on the bank checks, only the Bureau of Printing can print the reproduction of the official documentary stamps appearing thereon. The volume of private jobs done, in comparison with government jobs, is only one-half of 1 per cent, and in computing the costs for work done for private parties, the Bureau does not include profit, because it is not allowed to make any. Clearly, while the Bureau of Printing is allowed to undertake private printing jobs, it cannot be pretended that it is thereby an industrial or business concern. The additional work it executes for private parties is merely incidental to its function, and although such work may be deemed proprietary in character, there is no showing that the employees performing said proprietary function are separate and distinct from those employed in its general governmental functions.

From what has been stated, it is obvious that the Court of Industrial Relations did not acquire jurisdiction over the respondent Bureau of Printing, and is thus devoid of, any authority to take cognizance of the case. This Court has already held in a long line of decisions that the Industrial Court has no jurisdiction to hear and determine the complaint for unfair labor practice filed against institutions or corporations not organized for profit and, consequently, not an industrial or business organization. This is so because the Industrial Peace Act was intended to apply only to industrial employment, and to govern the relations between employers engaged in industry and occupations for purposes of gain, and their industrial employees. (*University of the Philippines, et al. vs. CIR, et al.*, 107 Phil., 848; *University of Sto. Tomas vs. Villanueva, et al.*, 106 Phil., 439; *La Consolacion College vs. CIR*, 107 Phil., 636; See also the cases cited therein.)

Indeed, as an office of the Government, without any corporate or juridical personality, the Bureau of Printing cannot be sued. (Sec. 1, Rule 3, Rules of Court.) Any suit, action or proceeding against it, if it were to produce any effect, would actually be a suit, action or proceeding against the Government itself, and the rule is settled that the Government cannot be sued without its consent, much less over its objection. (See *Metran vs. Paredes*, 79 Phil., 819; 45 Off. Gaz., [7] 2835; *Angat River Irrigation System, et al. vs. Angat River Workers' Union, et al.*, 102 Phil., 789.)

The record also discloses that the instant case arose from the filing of administrative charges against some officers of the respondent Bureau of Printing Employees' Association by the Acting Secretary of General Services. Said administrative charges are for insubordination, grave misconduct and acts prejudicial to public service committed by inciting the employees of the Bureau of Printing to walk out of their jobs against the order of the duly constituted officials. Under the law, the Heads of Departments and Bureaus are authorized to institute and investigate administrative charges against erring subordinates. For the Industrial Court now to take cognizance of the case filed before it, which is in effect a review of the acts of executive officials having to do with the discipline of government employees under them, would be to interfere with the discharge of such functions by said officials.

Wherefore, the petition for a writ of prohibition is granted. The orders complained of are set aside and the complaint for unfair labor practice against the petitioners is dismissed, with costs against respondents other than the respondent court.

Bengzon, Bautista Angelo, Labrador, Paredes, and Dizon, JJ., concur.

Reyes, J. B. L., J., concurs in the result.

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