

G. LINER AND/OR JOSE DE KEYSER, PETITIONERS, VS. NATIONAL LABOR UNION, EMILIANO SILVA AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-24963. November 29, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

Declared guilty of unfair labor practice and sentenced on August 18, 1965 by the Court of Industrial Relations (CIR) en banc to restore respondent Emiliano Silva to his position as driver with back wages computed from March 5, 1959 to the date of reinstatement (excluding the period from June 8, 1964 to March 8, 1965), petitioners seek review.

A bus driver of petitioner G. Liner since 1957, respondent Emiliano Silva joined the "Kapisanan Ng Manggagawa sa G. Liner." In January of 1959, he started campaign for membership in the National Labor Union. A nucleus of the local chapter of that union amongst petitioner company's workers was eventually formed. Silva and 11 other drivers formally affiliated with the National Labor Union on February 28, 1959.

When Silva reported for work on March 5, 1959, he was assigned Bus No. 19, an old and shabby Chevrolet, good for only 35 seated passengers. He felt discriminated against. He drove the bus. He made three trips, drove the bus to the company garage. He left a written note with the dispatcher. That note was to the effect that he would complain with the Department of Labor about an undue change in the condition of his employment.

Having lodged his complaint with the labor authorities, Silva returned to his work late in the afternoon of that same day, March 5, 1959. He was to Sign the dispatcher's book to enable him to report for work the following day. The dispatcher for that day did not allow him to sign up, on instructions from the management.

He was told to see petitioner De Keyser, the com-pany manager. Silva saw De Keyser. The latter exhibited his displeasure for Silva's having gone to the Department of Labor. De Keyser's words were: "Yoh, Silva, are up to a lot of foolishness ('marami kangkalokohan'). You think we don't know what you have been doing."

It developed that right after Silva left for the Department of Labor on March 5, 1959, one Mrs. Purita de Guia, De Keyser's assistant, instructed the conductor assigned to Silva's bus to accomplish a written report merely mentioning that the bus went back to the garage at the instance of the driver at 11:15 a.m., although the bus had no engine trouble. There was no mention in the explanation why the driver did so. That report, to all indications, was conceived to justify violation report against Silva.

Silva made attempts to resume his work. He was given the run around treatment by petitioners. On March 15, 1959, letters signed by the company investigator, Jose Macapagal, were sent to Silva and to three other drivers, Brigido Daco, Ramon Sabarillo and Domingo Lacson. The four were asked to return to work. But only Sabarillo and Lacson were taken back. And this, inspite of the fact that the four presented themselves in response to the call. Attempts of Silva and respondent National Labor Union to procure Silva's return proved futile.

This precipitated the unfair labor practice complaint lodged with the CIR by its acting prosecutor, Dominador Cruz, against petitioners.[1] With the result indicated at the start of this opinion.

1. Petitioners ask this Court to overturn the findings of fact heretofore related. They question the veracity of respondent Silva's court testimony. They dissected the evidence. They would want us to conclude that the greater weight of evidence is in their favor.

A principle to which this Court has consistently adhered by frequent pronouncements is that the findings of fact of CIR will not be disturbed provided substantial evidence exists in support thereof.[2] In appeals from CIR decisions, preponderance of evidence is thus not the issue.[3] Since substantial evidence is before us, CIR's findings of fact are conclusive upon this Court.

2. Petitioners next ask us to overrule the CIR'S resolution for the payment to Silva of full back wages. Two cases they cited, *Fernando vs. Angat Labor Union*, L-17896, May 30, 1962, and *Sta. Cecilia Sawmills, Inc. vs. Court of Industrial Relations*, L-19273 & L-19273, February 29, 1964.

Neither one nor the other may be equated with the case at bar. In *Fernando*, the line was sold to Villa Rey Transit, Inc. The employees were informed of the sale. They sought reinstatement. It was there held that, as reinstatement depended upon the buyer, Fernando should, in equity, be held liable for back wages only for a period of six months. In *Sta. Cecilia Sawmills, Inc.*, the company's liability for back wages was for three months. Naturally, because the company closed operations due to business losses.

Itogon-Suyoc Mines, Inc. vs. Sañgilo-Itogon Workers' Union, L-24189, August 30, 1968, we believe, is here controlling. There, the dismissal of the employees was also because of unfair labor practice. They remained dismissed for over ten years. We there held, as we do now here, that the employees are entitled to back wages, from the date of their dismissal to their actual reinstatement. In the case just cited, however, we established guidelines to be followed in the computation of back wages, viz:

"First. To be deducted from the back wages accruing to each of the laborers to be reinstated is the total amount of earnings obtained by him from other employment(s) from the date of dismissal to the date of reinstatement. Should the laborer decide that it is preferable not to return to work, the deduction should be made up to the time judgment becomes final. x x x.

Second. Likewise, in mitigation of the damages that the dismissed respondents are entitled to, account should be taken of whether in the exercise of due diligence respondents might have obtained income from suitable remunerative employment."

We see no reason to depart from the *Itogon* ruling.

With the observations just noted, we vote to affirm the judgment under review.

Costs against petitioners.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Castro, Fernando, and Capistrano, JJ., concur.

[1] Case No. 2011-ULP, entitled "National Labor Union, Complainant, versus G. Liner and/or Jose De Keyser, Office Manager, Respondents."

[2] *Laguna Transportation Employees Union vs. Laguna Transportation Co., Inc.*, L-23266, April 25, 1968, citing cases; *Cebu Portland Cement Company vs. Cement Workers Union*, L-25032, 25037 & 25038, October 14, 1968.

[3] National Fastener Corporation of the Philippines vs. Court of Industrial Relations, L-15834, January 20, 1961; Laguna Transportation Employees Union vs. Laguna Transportation Co., Inc., *supra*.

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