

**RADIO COMMUNICATIONS OF THE PHILIPPINES, INC. (RCPI),
PETITIONER, VS. PHILIPPINE COMMUNICATIONS ELECTRONICS
& ELECTRICITY WORKERS’ FEDERATION (FCWF), RADIO
COMMUNICATIONS OF THE...**

G.R. No. L-37662. July 15, 1975

Ponente: BARREDO, J.

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BARREDO, J.:

Three incidents arising from Our decision in this case dated August 30, 1974: (1) Motion for reconsideration filed by petitioner; (2) Manifestation and motion for intervention of United RCPI Communications Labor Association-Philippine Association of Free Labor Unions (URCPICLA-PAFLU); and (3) Prayer for a modified judgment filed by respondent union, Philippine Communications, Electronics & Electricity Workers' Federation, RCPI Employees' Union (RCPIEU).

I

In its motion for reconsideration, petitioner suggests that Our decision did not resolve squarely the issue of whether or not respondent Industrial Court gravely abused its discretion in declaring petitioner, by its order of February 15, 1973, as having waived its right to make an offer of its evidence and in forthwith considering the matter of the implementation of the return-to-work order of April 23, 1968 as directed in the writ of execution of December 29, 1969 submitted for resolution. It is claimed that this issue is pivotal, for if it is resolved in its favor, the ordered reinstatement of the 167 employees and workers enumerated in respondent court's order of October 5, 1973 may not be complied with until after the issues of fact regarding their identity and status as such workers and employees have been reviewed and passed upon in the light of the evidence offered by petitioner at the hearing. Petitioner invokes Section 20 of Commonwealth Act 103 together with this Court's injunction in *Ang Tibay vs. CIR*, 69 Phil. 365, that the Industrial Court must "use the authorized legal methods of securing evidence and informing itself of acts material and relevant to the controversy" in seeing to it "that the law is enforced." In other words, petitioner submits that in ignoring or refusing to take into account evidence already in the record albeit not duly offered, respondent court sacrificed substance for technicality.

In this connection, it may be well to bear in mind, that the reasons why respondent court felt compelled to act as it did are explained in its order of February 15, 1973 thus:

"All these aforestated pleadings were set for hearing on January 29, 1973. After the parties made clear their respective positions on the issues involved, the Court gave the counsel for respondent until February 3, 1973 within which to submit his offer of exhibits in writing and the counsel for petitioner three (3) days after receipt of the offer in writing within which to file his objections. Both counsel were also given by the Court ten (10) days from submission of the objection within which to submit simultaneous memoranda (t.s.n., pp. 2-6, Jan. 29, 1973).

Considering that February 3, 1973, had already lapsed without respondents having as yet submitted its offer of exhibits, despite the so many chances given to it, there is now valid reason to grant the urgent motion of petitioner." (Page 58, Rollo.)

As We have said in Our decision, "(a) bare recital of the above facts renders undeniable the far-from-commendable efforts of petitioner to set at naught a return-to-work order. Considering that it is of a peremptory character and its execution was long overdue, the challenged actuation of respondent court had all the earmarks of legality." It is not true then that We have not resolved the issue referred to. Indeed, all that need be added here is that while it is true that labor cases, especially those involving claims for compensation due the workers, must be resolved on the basis of all material facts, and it is the inescapable duty of all parties concerned, including the court, to disregard all technical rules in baring[1] and discovering them, on the other hand, it is as important that said cases must be decided on time for the obvious reason that the claimants are not in a position to engage in any long drawn proceedings without risking either their wherewithal or their convictions. The courts cannot leave the progress of the case to the convenience of the parties, particularly, the employer who can afford to keep it dragging. Accordingly, where the inquiry into the material facts is unreasonably delayed by unwarranted and unexplained actuations of any of the parties, no abuse of discretion is committed by the court if it deems the right of such offending party to present his factual side of the issue waived.

This is particularly true in the case at bar, for, as the record shows, the order of reinstatement which has remained unobeyed by petitioner to this day was issued more than seven years ago and was in fact already nearing five years old when the above-quoted order of February 15, 1973 had to be issued in exasperation by respondent court. The duty of the court spoken of in *Ang Tibay* to ferret out all facts necessary for the just determination of the rights of the parties without regard to technical rules ceases when the court is disabled by the very indifference and inattention, if not disregard, of a party of the orders of the court designed to expedite proceedings already being protracted through maneuvers of the same party.

Besides, it is noteworthy that petitioner did not even care to move for the reconsideration of the order in question. Taking the court for granted, it merely went ahead and made its required offer of evidence, at long last, eighteen days late. If only to make all and sundry understand that no one can thus trifle with the court with impunity, petitioner should suffer the consequences of its patent lack of diligence in the protection of its interest which it has coupled with inexplicable failure to accord the orders of the court due attention, considering it was undertaking a task of vital public interest, the implementation of a peremptory return-to-work order it had issued five years back.

It is of no consequence that respondent union's motion to strike out the offer of evidence belatedly filed by petitioner was not resolved by respondent court. The fact of the matter is that said offer had already been deemed waived by the court. Procedurally, therefore, there was no need to strike out something that had not been included legally in the record.

In view of the foregoing considerations, and for the reason that the arguments of petitioner relative to Presidential Decree No. 21 have been more than adequately discussed in Our decision, petitioner's motion is denied for lack of merit.

II

The motion to intervene of URCPICLA-PAFLU is likewise without merit. Aside from the fact that it had already intervened in the court below but later on did nothing to protect its pretended rights relative to the orders assailed here, on the merits, its position suffers from the same fatal defect of the motion for reconsideration of petitioner in that it is premised on erroneous assumptions regarding the objective and purpose of Presidential Decree No. 21.

The members of movant union were hired or employed by petitioner in open violation of the order of reinstatement of the Industrial Court and as such they cannot have any legal standing as employees protected by said Presidential Decree. It would be absurd if an employer were to be required to seek prior clearance from the Department of Labor before he can layoff workers he has hired as substitutes for strikers subsequently ordered reinstated by the courts, particularly if the employer has, as in the instant case, hired said substitutes in violation of a restraining order not to hire anyone without the permission of the court. The motion to intervene is, therefore, denied.

III

It is the plea of respondent unions for modification of Our decision that deserves favorable consideration. The prayer is for Us to include in the judgment an award of backwages to the employees and laborers concerned, in addition to their immediate reinstatement. The plea is opposed by petitioner upon the ground that the issue of payment of backwages was neither raised in nor passed upon by the Industrial Court and is, in fact, not even touched in the previous pleadings of the parties in the instant case. Additionally, it is averred that the matter is now actually being looked into by the National Labor Relations Board, hence it is not necessary for this Court to take it up.

We are of the considered opinion that, indeed, the award prayed for is in order. The fact that nothing was done in the court below about it is not a valid objection to the granting thereof. Neither can its denial be justified just because it was not expressly demanded by respondents before Our decision was handed down. Such award is such a logical and inescapable consequence of the order of reinstatement that actually one is incomplete without the other.

We are not dealing here with backwages to be paid to workers who are being ordered reinstated as a consequence of a finding by the court that their suspension or dismissal by their employer is illegal, which, of course, is dependent on the sound discretion of the court. (Union of the Philippine Education Employees vs. Philippine Education Company, 91 Phil. 93.) In the present instance, what is involved is a failure to comply with, nay a veiled defiance by respondent of a return-to-work order of the Industrial Court issued seven years ago. Worse, from all appearances, such continued resistance of petitioner to said peremptory order can hardly evoke sympathy. To begin with, its attempt to question the identity of those entitled to reinstatement claiming that they were not actually in their employ at the time of the declaration of the strike sounds hollow. It is inconceivable that strangers and outsiders would try to be taken in such a surreptitious manner. Neither can the allegation that petitioner has presented evidence of abandonment prior to the strike and of resignations subsequent thereto be of help to petitioner. Voluntary abandonment of work before a strike is too unusual to be readily credible whereas purported resignations after a strike and during the pendency or protracted reinstatement proceedings are at least suspect and do not affect the employee status of the persons concerned, unless there is patent evidence that the pretended abandonment or resignation was due to another employment.[2] Moreover, the proceedings below had been stalled by transparent dilatory moves of petitioner which are basically irreconcilable with the attitude of cooperativeness and obedience an employer is expected to maintain at all times towards orders of the court issued by virtue of powers expressly granted to it by law. (Section 10, Republic Act 875;) Section 19, Commonwealth Act 103.)

The Industrial Court had no discretion in the matter. There was no controversial issue of fault it had to decide. It was a plain case of exacting the most natural sanction for a defiance of its order. If it overlooked the award, seemingly engrossed as it was in resolving the issue of identity of the strikers raised by petitioner, that was plain error which it is within Our prerogative to correct *motu proprio*, as We do in appeals by writ of error in respect to a manifest error not assigned nor discussed by appellant in his brief (Section 7, Rule 51.) Employees and workers

deprived of their means of livelihood in defiance of a judicial order the legality of which is beyond dispute do not have to remind the court of their right to get compensated of their lost earnings upon their actual reinstatement. Award thereof should come as a matter of course. For Us not to rule on this point now only to leave it for action by the National Labor Relations Board and thereby give rise to another possible appeal to Us to unnecessarily lengthen even more the tortuous road already travelled by respondents in their effort to get what has been rightfully due them since years ago. We would be recreant to our constitutional duty to give protection to labor that way.

IV

Taking all circumstances of this case into account, We find no justifiable reason why We cannot apply here in respect to the amount of the award the ruling in *Feati University Club vs. Feati University*, G.R. No. L-35103, Aug. 15, 1974, wherein We said:

"As to the amount of backwages, the Court applies the precedent recently set in *Mercury Drug Co. vs. CIR* (L-23357, April 30, 1974, applied in *NASSCO vs. CIR*, L-31852 & L-32724, June 28, 1974 and *Almira, et al. vs. B.F. Goodrich Phil., Inc.*, L-34974, July 25, 1974.) of fixing the amount of backwages to a just and reasonable level without qualification or deduction so as to avoid protracted delay in the execution of the award for backwages due to extended hearings and unavoidable delays and difficulties encountered in determining the earnings of the laid-off employees ordered to be reinstated with backwages during the pendency of the case for purposes of deducting the same from the gross backwages awarded.

"As has been noted, this formula of awarding reasonable net backwages without deduction or qualification relieves the employees from proving or disproving their earnings during their lay-off and the employers from submitting counterproofs, and obviates the twin evils of idleness on the part of the employee who would 'with folded arms, remain inactive in the expectation that a windfall would come to him' (*Itogon Suyoc Mines, Inc. vs. Sangilo-Itogon Workers Union*, 24 SCRA 873 (1968), cited in *Diwa ng Pagkakaisa vs. Filtex International Corp.*, 43 SCRA 287 (1972) per Makalintal, now C.J.) and attrition and protracted delay in satisfying such award on the part of unscrupulous employers who have seized upon the further proceedings to determine the actual earnings of the wrongfully dismissed or laid-off employees to hold unduly extended hearings for each and every employee awarded backwages and thereby render practically nugatory such award and compel the employees to agree to unconscionable settlements of their backwages award in order to satisfy their dire need. (See *La Campana Food Products, Inc. vs. CIR*, 28 SCRA 314 (1969) and *Kaisahan ng Mga Manggagawa vs. La Campana Food Products, Inc.*, 36 SCRA 142 (1970)."

This formula of making a flat award for a given period has been adopted in subsequent cases.[3] Accordingly, each of the 167 members of respondent unions named in the decision under review and found by the Industrial Court to be entitled to reinstatement should be paid backwages for two years, without any deduction or qualification, at the respective rates of compensation they were receiving at the time of the strike, November 17, 1967. It goes without saying that all those who can be shown by incontestible evidence to have died prior to the date of the strike shall be disregarded, but the heirs of those who have died after the strike shall receive the respective proportional amounts due their predecessors-in-interest as of the time of death, if the same occurred less than two years from the date of the strike, and the full two-years backwages, if after two years from said date. Any amount paid by reason or on the occasion of supposed resignations after the strike shall not be deducted.

Before closing, it must be mentioned that the Court understands that notwithstanding that its decision of August 30, 1974 is immediately executory, the employees concerned have not yet been reinstated up to now. Petitioner is warned, that the pendency of the present incidents is no excuse for its failure to comply immediately with said decision and appropriate action would have to be taken to protect the dignity of the court, if such attitude continues.

WHEREFORE, the motion for reconsideration of petitioner dated September 16, 1974 as well as the motion to intervene of URCPICLA-PAFLU of October 16, 1974 are both denied for lack of merit. On the other hand, the motion of respondent RCPIEU of November 6, 1974 for modification of judgment is granted, if only to complete Our decision, which cannot be final without such award being included therein. Petitioner is ordered to pay the 167 employees and workers of petitioner enumerated in the Industrial Court's order of October 5, 1973 backwages for two years, without any deduction or qualification, pursuant to the tenor of the above opinion. This resolution is also immediately executory.

Antonio, Aquino, and Concepcion, Jr., JJ., concur.

Fernando, J., concurs in a separate opinion.

[1] East Asiatic Company, Inc. vs. Court of Industrial Relations, L-29068, August 31, 1971, 40 SCRA 521.

[2] cf. Firestone Filipinas Employees Association vs. Firestone Tire and Rubber Co., December 10, 1974, 61 SCRA 339; Feati University vs. Bautista, December 27, 1966, 18 SCRA 1191; Urgelio vs. Osmena, Feb. 28, 1964, 10 SCRA 253; Insular Sugar Refining Co. vs. CIR, May 31, 1963, 8 SCRA 271; PHILSUGIN vs. CIR, Sept. 29, 1960, 109 Phil. 452; Garcia vs. LASEDECO, Aug. 31, 1954, 95 Phil. 698.

[3] Mercury Drug Co. vs. CIR, L-23357, April 30, 1974, applied in NASSCO vs. CIR, L-31852 & L-32724, June 28, 1974 and Almira, et al. vs. B.F. Goodrich Phil., Inc., L-34974, July 25, 1974.

CONCURRING

FERNANDO, J., :

It has been observed, and not without justification, that the solution of labor controversies taxes to the utmost the ingenuity of courts and arbiters for what may serve to do justice in the instance may later prove to be inconvenient of later application to analogous fact situations. For in no other kind of litigation is there a greater need for sizing up situations, very often unique in character and thus not likely to repeat themselves. Care is to be taken therefore that while the conclusion reached in any litigation with its essentially peculiar circumstances may commend itself, the doctrine announced does not deviate from the main stream of juristic thought. It is to the credit of the opinion of Justice Barredo that there is adherence to prescribed norms governing labor-management relations. It is impressed with an even greater significance for it manifests in no uncertain terms that this Court is not likely to tolerate such conduct as that displayed by petitioner when all these past years it persistently refused to obey respondent Court's order for immediate reinstatement. Such intransigence is unjustified even if sought to be cloaked under a claim of a denial of procedural due process. Such behavior is antithetical to the rule of law. What was stressed in *Philippine Associations of Free Labor Unions v. Salvador*[1] comes to mind. Thus: "Law stands for order, for the peaceful and systematic adjustment of frictions and conflicts unavoidable in a modern society with its complexities and clashing interests. The instrumentality for such balancing or harmonization is the judiciary and other agencies exercising quasi-judicial powers. When judicial or quasi-judicial tribunals speak, what they decree must be obeyed, what they ordain must be followed. A party dissatisfied may ask for reconsideration and, if denied, may go on to a higher tribunal. As long as the orders stand unmodified, however, they must, even if susceptible to well-founded doubts on jurisdictional grounds, be faithfully complied with." [2] At the very least, petitioner ought to have complied if not at the first opportunity, after it was notified of our decision promulgated on August 30, 1974.[3] It did not turn out that way. Our resolution then appropriately takes it to task. I concur and add a few words.

1. At the outset, may I refer to what led our Division to assign another member to pen the resolution, when the usual practice is for the ponente to speak for the Tribunal in passing upon a motion for reconsideration. As set forth by Justice Barredo in his opening paragraph, three pleadings were filed after the promulgation of our judgment: (1) the motion for reconsideration filed by petitioner, (2) the manifestation and motion for intervention of United RCPI Communications Labor Association, and (3) the motion for modification of the decision filed by respondent union. The points of law raised did call for further study. The allegation of denial of procedural due process has had to be inquired into, even if impressed at the most with deceptive plausibility. As is made clear in the resolution, it could not survive the test of a rigorous analysis. What is more, it was previously considered and rejected as set forth in Justice Barredo's opinion. Nonetheless, several sessions were devoted to considering the motion for intervention and the modification of the decision. When a consensus was reached, it was apparent that the approach followed by Justice Barredo was the focal point on which all could agree. It was deemed best therefore for him to speak for the rest of us.

2. It is readily apparent that with insistence of petitioner on the claim of an alleged denial of procedural due process being indicative not so much of reliance on applicable precedents but as a further excuse for delay, what did call for further reflection was the motion to intervene of a union representing the temporary employees of petitioner and the plea for the implementation of the decision rendered so that an award of backwages be granted. Candor compels the admission that there were some misgivings on my part as to the possible adverse consequences to the former set of workers once the order for reinstatement is implemented. If it were a case solely of management being made to bear the burden for failure to implement an order of respondent Court, then no problem arises. It was its fault and it had no one else to blame. Certainly it could and should be held accountable. Nonetheless, as pointed out in our resolution, the temporary labor force ought to have been aware of the transitory character of their employment. At any rate, I do not think that our resolution can be construed to mean any loss of whatever contractual right may have been entered by them with petitioner. That is a matter which to my mind is not covered by what is decided today. It is in that sense that for me there is no possible objection to the ground that the protection to labor is less than it should be^[4] or that the principle of social justice is disregarded.^[5] On this point, what for me is most creditable in our resolution is that the long-suffering employees and laborers, who in the past has been battling in vain against the wall of resistance put up by petitioner, would at long last receive their due. Once again, there is fealty to the concept of a compassionate society which is even more marked under the present Constitution.⁶ Also, from the constitutional standpoint, that is to render clear that in appropriate cases, the declaration of principles and state policies^[7] have a mandatory force of their own and are not just mere statements of noble platitudes or glittering generalities unrelated to reality.

3. One last word. There is, of course, the expectation that counsel should employ all the energies at one's command in the defense of the rights of his clients. His zeal is to be commended. He will not be true to his calling if such qualities are lacking in his advocacy. Nonetheless, there should be awareness likewise that at a certain stage in litigation, the appropriate course, as a matter of fact the only course, is to defer to an order of an inferior court or administrative agency unless duly set aside. The rule of law, to repeat, cannot be satisfied with anything less. Nor is there any justification for a member of the bar indiscriminately seizing upon any doctrine that might at most yield a colorable appearance of validity to a legal argument, so that his client would have no reason to feel that he is less than wholehearted in his handling of a case. The honor of the profession requires that on matters of law, it is a client who should yield to the lawyer and not the other way around.

There is on my part, to repeat, full agreement with what has been so ably and clearly said by Justice Barredo.

[1] L-29471, September 28, 1968, 25 SCRA 393.

[2] Ibid, 403.

[3] *Radio Communications of the Philippines v. Phil. Communications Electronics and Electricity Workers Federation*, L-37662, August 30, 1974, 58 SCRA 762.

[4] According to Article II, Section 9 of the Constitution: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

[5] According to Article IX Section 6 of the Constitution: "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits."

[6] Cf. *Philippine Air Lines, Inc. v. Philippine Air Lines Employees Association (PALEA)*, L-24626, June 28, 1974, 57 SCRA 489 and *Almira v. B. F. Goodrich Philippines, Inc.* L-34974, July 25, 1974, 58 SCRA 120.

[7] Article II of the Constitution.

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