

THE EAST ASIATIC CO., LTD., E. JAKOBSEN, P. H. SORENSEN AND K. R. NIELSEN, PETITIONERS, VS. COURT OF INDUSTRIAL RELATIONS, THE EAST ASIATIC CO. EMPLOYEES' UNION (PTUC) AND SOLED...

G.R. No. L-17038. April 30, 1966

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

This is an appeal from the resolution of the Court of Industrial Relations in banc affirming the decision of its Judge Emiliano C. Tabigne.

It appears that, before said court, on September 28, 1958, above respondent Employees' Union (for short) and Soledad A. Dizon charged The East Asiatic (for short) and the other petitioners herein, with unfair labor practice, alleging specifically that they had dismissed Soledad A. Dizon by reason of her union activities. Herein petitioners (respondents there) denied the charge, and averred that Dizon had been dismissed by reason of inefficiency, grave discourtesy and usurious practices.

Judge Tabigne found respondents there to have been guilty as charged, of unfair labor practice, and accordingly ordered them to reinstate Dizon with back wages from September 1, 1958 until actually reinstated.

East Asiatic moved for a reconsideration by the full court of Judge Tabigne's decision; but the motion was denied. Hence, this appeal for review by certiorari.

The issues raised are: (1) whether the due process of law clause of the Constitution was violated when petitioners were refused leave to argue orally their motion for reconsideration; and (2) whether the Court of Industrial Relations committed grave error in finding petitioners guilty of unfair labor practice.

- —Invoking the basic postulate that no person shall be deprived of life, liberty or property without due process of law, petitioners complain that they were not allowed to orally argue before the Court of Industrial Relations in banc in support of their motion for reconsideration.

This question has already been resolved in this jurisdiction. Hearing oral arguments on a motion for reconsideration rests upon the sound discretion of the Court; and its refusal does not violate the due process requirement, in the absence of a showing of abuse of discretion.[1] The Industrial Court had grounds to deny the motion for oral discussion. It noted that the arguments of the parties in their memoranda in support of their respective contentions, were exhaustive and sufficient to adjudge the motion to reconsider. Allowing for the right and privilege of courts to freely use their sound discretion, we must not disturb, at this level, their exercise of the judicial prerogative.

- —On the second issue, relevant cases confirm the rule that the findings of fact of the Court of Industrial Relations, are conclusive if such are supported by some evidence in the record. In this review, we are not

supposed to pass on the weight or preponderance of proof.

The records reveal that the East Asiatic is a corporation licensed to engage in the import, export, and shipping business in the Philippines, its managers being E. Jakobsen and K. R. Nielsen. The Assistant-Manager of the import department, was P. H. Sorensen, who acted as the immediate chief of Soledad Dizon at the time of her dismissal from the company's service.

Asiatic Employees Union was organized in March, 1958, among the personnel of East Asiatic. It was duly registered as a legitimate labor organization, and its membership included Soledad Dizon.

On April 22, 1958, Employees' Union presented to East Asiatic, a written demand for collective bargaining. In reply thereto, the latter required proof that the members of said union represented the majority of the company's employees. In compliance therewith, the list with the corresponding signatures of its members, one of them Dizon's, was submitted on May 3, 1958.

Soledad Dizon began working in East Asiatic's shipping department on February 8, 1951; later she was detailed in its export department in 1956, and in the import department in July, 1958. She rendered services as secretary in all these departments. She enjoyed maternity leave in May, 1957, and upon her return on September 15, 1957, she was requested to assist in the export department as secretary to a certain Miss Virginia Mata. In July, 1958, she was assigned to the import department also as secretary, and this time under the direct supervision of petitioner P.H. Sorensen.

Her work as secretary in the shipping and export departments included that of attending to correspondence, taking down dictations and transcribing them, filing, receiving telephone calls for the manager, making appointments for his official and personal engagements and for his consular work in the Danish Consulate. In the import department, in addition to the duties above-mentioned, she sometimes operated the telephone switchboard.

At about 8:30 to 9:00 o'clock in the morning of August 28, 1958, P.H. Sorensen requested Dizon to prepare three applications for letters of credit to be opened with the National City Bank of New York; one for milk for Copenhagen and two for flour for Vancouver and Portland; and to write an offer for tube mills to be submitted to one of the customers of the corporation. According to Dizon, when Sorensen at 2:00 o'clock in the afternoon of the following day, August 29, discovered that the work had not been completed, he called her inefficient, less efficient than when she was not yet a union member. She further declared that Sorensen would not listen to any explanation; that instead, he told her to finish the work right away before the close of banking hours (it being a Friday); that she sought the help of one Mr. Julio Jimenez who made the necessary computations and that at about 3:00 o'clock that afternoon of August 29, 1958, she managed to finish the three letters of credit with all the necessary supporting papers.

Dizon said that it took her some time to finish the said work because she had never before undertaken such task; that the preparation required a detailed procedure, utilizing facts and figures to be found in the files.

Continuing her statements, she said that she finished the offer for tube mills on August 30, 1958 (Saturday); but on this day, petitioner Sorensen called her to his table and inquired why she had abandoned her desk for three hours; that when she tried to explain that she was out for only 15 minutes for a call of nature, Sorensen again reproached her with the imputations that she merely attended to union activities, and neglecting her work; that when she asked him if they wanted her to leave the company, Sorensen replied that "surely that was what he had been waiting for and that the earlier she left, the better"; that on September 1, 1958, when she reported for work, she felt sick and that upon the written advice of the company's medical officer, the management gave her two days' sick leave; that upon her return to work on September 4, 1958, petitioner Jakobsen informed her that he had

decided that she should resign voluntarily from the company in order that she might be entitled to the Provident Fund; that said Jakobsen also told her that she had become inefficient because of union activities; that should she not resign, the company would be forced to dismiss her; that on September 6, 1958, she was again pressed into resigning on pain of dismissal; that when she forced the issue of whether or not she was being kicked out for union activities, petitioner Jakobsen answered that "more or less, I have to put it this way"; that when she showed reluctance to quit her job, both Jakobsen and petitioner Nielsen presented to her the letter dismissing her effective September 1, 1958.

Sorensen, on the other hand, declared that the preparation of the three letters of credit, and the offer for the tube mills would normally take only one hour and a half because all the details, like the cost involved, number of bags to be imported and amount of consular fees had been supplied by him in long hand on a piece of paper, and all that Dizon had to do was to copy them. (Dizon denied this statement, and said that all she received from Sorensen was a piece of paper directing her to prepare the papers with only the price for milk for Denmark and price per bag of flour for Cebu and Manila stated therein, so that it was still necessary for her to make the computation, to search the files for the required data and documents, and prepare the pertinent supporting papers for the completion of the letters of credit.)

Sorensen, however, emphasized that the application for letters of credit were in printed form and that all Dizon had to do was to fill up the few blank lines with two or three dates and to put in the amount involved. He admitted that telegrams to their suppliers had to be copied and that Dizon had to look into the files for them as well as for the cables involved in the transactions and copy the same; that affidavits for the National City Bank of New York, certifying to the fact that the corporation's dollar allocation had not been used up, must be prepared to accompany these letters of credit, etc.

On the incident of August 30 (Saturday), Sorensen declared that about 1:00 o'clock that noon, he asked Dizon whether or not she had started on the offer for the tube mills to which she replied that she had not; that he again asked her to type the offer; that while he was standing by her desk, he saw some slips of papers with amounts and names of different persons, some crossed out and some checked off; that when he jokingly asked her whether she had some sort of an investment company in which he would want to make some investments, Dizon curtly replied that it was none of his business; that he retorted that she should do her private business outside office hours; that suddenly Dizon took the whole sheaf of letters and papers on tier table, and threw them on the floor shouting that Sorensen did not like her; that nobody liked her, that Sorensen was always like a monkey on her back; that thereafter, Sorensen picked up the papers and once more told her to type the letters, but she refused and instead went out crying and turning around to him, shouted at him in the dialect, etc.

Dizon swore, that she cried because when Sorensen saw on her desk the list of employees that had taken milk from the company on credit, he again reproached her for her inefficiency and union activities; he also told her to resign, because the company did not need her anymore.

Judge Tabigne, after considering the conflicting evidence in detail in a long decision, gave credence to Dizon's version. It is possible that her testimony, upon critical examination—as was done by petitioners' attorneys—may disclose some defective or weak particulars; but allowing for the advantage of the trial judge who observed her on the witness stand, and considering that under the law, we are not permitted to pass—at this level—on the preponderance of evidence [2], the finding must be approved that she had been dismissed without sufficient cause, but owing to her activities on behalf of the Union. It is to be observed that delay in her assigned work has not been shown to be habitual, although she was in the employ of the company for seven years; and only after she had joined the Union, was she called to account or reproached for something that, under other circumstances, might have been overlooked.[3] She must have perceived the new fault-finding attitude of her superiors, and realizing

she had become persona non-grata, she burst into tears on the day (August 30, 1958), when Sorensen asked why she had not yet finished the tube-mills chore and sneeringly referred to her other interests.

Root-cause of it all, she suspected,—and as the court found—was her concern for the new labor association. Her employment was terminated without any of the justifying causes enumerated in Republic Act No. 1787.

Wherefore, her reinstatement with back pay was correctly ordered. Judgment affirmed, with costs.

Bautista Angelo, Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, and Bengzon, J.P., JJ., concur.

[1] Sec. 6, Republic Act No. 875; Manila Trading case, L-47233.

[2] Authorities on the point are cited by respondents' attorney.

[3] Observe that her services must have been satisfactory, because she received yearly increases in salary.

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