

LAKAS NG MANGGAGAWANG MAKABAYAN (LMM), PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, FEDERACION OBRERA DE LA INDUSTRIA TABAQUERA Y OTROS TRA-BAJADORES DE FILIPINAS (FOITAF), RE...*G.R. No. L-32178. December 28, 1970*

Ponente: CASTRO, J.

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Petition for certiorari with preliminary injunction to re-view a resolution of the Court of Industrial Relations (CIR) en banc dated June 25, 1970, which denied a motion for intervention filed by the petitioner Lakas ng Manggagawang Makabayan (hereinafter referred to as the LMM) in Certification Election case MC -1811.

On October 24, 1966 the Federacion Obrera de la Industria Tabaguera y Otros Trabajadores de Filipinas (hereinafter referred to as the FOITAF) filed with the CIR a petition for certification election among the rank and file employees of the U. S. Tobacco Corporation, to determine which of the various labor organizations in the said corporation was to be certified as the sole and exclusive bargaining representative of the employees, therein.

On October 27, 1966 the CIR issued an order directing the delivery and posting of notices concerning the said petition (docketed as Certification Election case MC-1811) so that all interested parties might have an opportunity to intervene in the proceedings.

In due time, several labor unions filed their respective motions for intervention, but subsequently, for one reason or another, only the FOITAF and one other labor union, the USTC Associated Employees & Workers Union-PTGWO (hereinafter referred to as the PTGWO) remained as contenders in the election race.

On January 20, 1969, after evidence was adduced by the parties in the case, the CIR issued an order commissioning the duly authorized representatives of the Department of Labor to supervise the conduct of the election, which was held On February 7 and 8, 1969.

The results of this election showed that out of 3,432 votes cast, the FOITAF garnered 1, 881 votes, the PTGWO obtained 1,385 votes, 136 ballots were challenged, and the rest were either spoiled ballots (16) or no-union votes (14).

On February 10, 1969, however, the PTGWO lodged an election protest, contending that more than 1, 344 electors were either illegally disfranchised or were unable to vote because of several violent incidents that occurred while the voting was taking place.

On June 15, 1970 the herein petitioner LMM filed with the CM a motion for intervention in case MC-1811, asserting that due to the bitter union rivalry in the U. S. Tobacco Corporation a majority of the employees had withdrawn their affiliation from both the FOITAF and the PTGWO and instead affiliated with the LMM. The CIR allowed the LMM to present evidence in support of its position on June 22, 1970. The LMM presented only

one witness who was cross-examined by the counsels of the adversely affected labor unions, and the case was submitted for resolution on the same day by the parties.

In its resolution of June 25, 1970 the CIR en banc direct-ed a new election to be held on July 7, 1970. In the same reso-lution, the court en banc, prompted by the absence on official leave of the trial judge assigned to the case who failed to leave any instruction as to which sala in the meantime will act on the same, acted motu proprio on the LMM motion for intervention and resolved to deny the same on the ground that "Otherwise, there will be no end to court proceedings."

On July 3, 1970 the LMM filed with this Court the present petition for certiorari. On July 7, 1970, we ordered the inclu-sion of the FOITAF as party respondent and likewise enjoined the holding of the election scheduled on July 7, 1970. [1]

The petitioner LMM contends, in the main, that the CIR en banc abused its discretion and denied the said union due pro-cess (a) ay assuming the power to decide the union's motion be-fore this could be resolved by the trial judge to whom the certi-fication election case was assigned; and (b) in denying its motion for intervention which, it argues, was timely filed.

On the other hand, the respondents maintain that the mo-tion of the petitioner was filed out of time (citing section 2 of Rule 12 of the Rules of Court),[2] and that, at all events, its in-terest, as shown by its own evidence, is merely contingent and expectant.

1. We cannot sustain the first point raised by the petitioner. The CIR en banc decided the LMM's motion for interven-tion principally by virtue of the fact that the trial judge hearing the election case failed to leave any instruction as to which sala should act on the case when he went on leave of absence, and only after the petitioner union had completed the presentation of its evidence and the case was submitted by all the parties for resolution. The petitioner's case, therefore, required no other action on the part of the CIR except a decision; While as a mat-ter of practice and orderly procedure, cases brought before the CIR are first assigned to trial judges for decision or ruling, there is nothing in the law creating that tribunal (C. P. 103), nor in any otter statute, from which we can infer that the CIR en banc cannot withdraw a case, if the circumstances so warrant, from the judge to whom the case has been assigned by delega-tion. Quite the contrary: section 20 of C.A. 103, besides ex-pressly empowering the CIR to adopt its own rules of procedure, provides further that "in the hearing, investigation and deter-mination of any question or controversy and in exercising any duties and power under this Act, the Court shall act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms and shall not be bound by any technical rules of legal evidence." Considering then the ample powers bestowed by law upon the CIR concerning the su-pervision and control of its proceedings, as well as the peculiar and special circumstances of urgency which compel ed it to act ad hoc on the motion of the LMM and the rights of the other la-bor unions which were likely to be adversely affected if the here-in petitioner's motion were not promptly acted upon we are fully satisfied that no abuse of discretion was committed by the CIR en banc in assuming motu proprio the authority to decide the petitioner's right and interest to take part in the certification election case. The petitioner, moreover, was afforded every opportunity to present its case.

2. Anent the diametrically conflicting viewpoints of the adversaries concerning the timeliness of the LMM in ervention motion, it is our view that any objection to defeat the movant's right to intervene in the certification case on the ground that the motion was filed out of time is now moot and academic. It must be observed that the CIR gave due course to the motion of the LMM and, in fact, received the testimony of the union's lone witness who was subjected to cross-examination by the counsels of the FOITAF and the PTGWO. The parties which stood to be adversely affected by the admission of the LMM motion should have questioned its having been given due

course right then and there. This, they failed to do. On the other hand, section 7 of C.A. 103 allows the CIR to waive any error, defect or irregularity, whether in substance or in form, of its proceedings. Hence, in their failure to interpose any objection before that court regarding the timeliness of the filing by the UM, of its motion for intervention, the parties privy in the election case below, in effect, agreed with the CIR's action on this point.

3. We now turn to the argument adduced by the respondent CIR that the interest of the LMM in the election case is merely contingent and expectant.

The denial by the CIR of the motion for intervention of the LMM was premised, under its resolution of June 25, 1970, upon the ground that there will be no end to court proceedings if the LMM should be allowed to intervene. The CIR expressed this opinion apparently in the belief that from the evidence adduced at the hearing on the intervention motion, the LMM failed to prove that its interest in the election race was actual and material, direct and immediate; and not merely contingent and expectant. Thus, according to the CIR memorandum of arguments:

"Petitioner, although belatedly filed its motion to intervene, in the interest of justice and equity, was allowed to present evidence on June 22, 1970 not only to prove its legitimacy and legal interest but also to show, by concrete evidence, special reason why it should be admitted ... to participate in the election ... petitioner LMM, merely presented, without submitting or even producing a single membership affiliation, its alleged local president, Paz Alejandrino. This witness testified that the LMM has a following of more or less 300 employees. But when asked to show proofs to substantiate the same, she declared:

"There is no necessity of asking these people to sign because of the trouble. Those who are for peace might vote for us."

Moreover, the respondent CIR argues, counsel for the LM-1M admitted at the hearing on June 22, 1970 that at that time the said union had not yet solicited any signed membership of the 300 or so employees it claimed to be its members.

When reviewing the findings of fact of the Court of Industrial Relations, we have, in a long line of cases, said that that court's findings, if supported by substantial evidence on the record, are conclusive.[3] "Substantial evidence is more than a scintilla, and must do more than create a suspicion of the existence of the fact established. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." [4] Evidently, the CIR's conclusion would not be adequate if it were based simply on the portion of the evidence that supports its findings. Justice and equity demand that the records of the case be considered as a whole.

In the order of the CIR of May 27, 1970 which was in toto affirmed by the court en banc in its resolution of June 27, 1970, the following statement of the judge assigned to the case appears:

"It may be said that the present case is one of first impression. From the time the certification election on February 7 and 8, 1969 was held, unusual incidents and events have occurred. The integrity of the Court has been assailed and there have been unsavory character assassinations. Physical injuries and death marred the picket lines and for quite sometime, the media sensationally played it up. Without in the least stating nor creating any inference of fear for which this Court, nor any court for that matter, cannot be subjected to, it is now high time and timely to declare, to all and sundry, that this Court is not only a court of equity but also a court of justice and no amount of pressure, influence, threats and other abhorrent insidious machinations from any sector can compel it to act contrary to its avowed conviction of what is right, equitable and justiciable under the premises....

"The supervening circumstances from the time of the certification election - wherein it would seem to appear that although FOITAF won in the election, it seems that it does not now presently control the majority of the bargainable employees owing to the apparent affiliations of its members with the USTCLU-NATU; likewise

intervening circumstance that for quite a time, the USTCLU-NATU has been on strike which paralyzed the operations of the company except lately when the members of the USTCAEWU-PTGWO were able to enter and work; the present apparent, uncertainty of the desire of the employees as to which union should represent them for collective bargaining purposes generating doubt as to majority representation; and the passage of time from the election up to the present are the salient factors that this Court has to seriously consider.

"The Court would not want to certify a labor union as the bargaining agent of the employees if it does not anymore control the majority. To do so would utterly negate the purpose of representation and bring only chaos instead of industrial peace. Certification of a bargaining agent should at least be proximate to the date of the election to give sanction to the expressed desire of the employees. For the bargaining agent must be truly representative of the employees."

From the foregoing findings of the trial judge of the respondent CIR who heard the certification election case, the conclusion is inevitable that at about the time of the filing of the motion for intervention by the LMM, allegiances and loyalties among the U. S. Tobacco Corporation employees were behaving like shifting sands such as to have a radical effect upon the choice of the appropriate bargaining representative.[5] Violent incidents and protracted strikes also occurred which, as may be inferred from the evidence of the LMM, apparently caused the polarization of a good number of the employees toward an organization that hitherto had not had any connection with the union rivalry then in progress. This apparently was what impelled the witness of the LMM to say, "Those who are for peace might vote for them (us)." Considering the situation then at hand as described by the trial judge of the CIR that heard the election case, this remark of the LMM witness appears to us credible enough to warrant the conclusion that the said union, indeed, has a direct and material interest at stake in the new elections ordered to be held. At any rate, we find no evidence in the record that sufficiently rebuts the claim of the LMM that it has 300 members among the employees of the U. S. Tobacco Corporation.

It must also be observed that at the time the motion for intervention was presented by the LMM to the CIR, the latter was still in the process of investigating the possibility of holding a new election since it had, through its associate judge, nullified the election held in February, 1969 and directed the holding of a new one. The CIR en banc, in turn, subsequently affirmed the nullity of the February 1969 election.

It is therefore our considered view that in solving the practical difficulties which confront the respondent CIR in this case, the inclusion of the LMM in the new competition for labor representation would, in an appreciable measure, help subserve the declared policies of the Industrial Peace Act.

ACCORDINGLY, the resolution of the Court of Industrial Relations of June 25, 1970 is hereby modified so as to allow the Lakas Ng Manggagawarig Makabayan (LMM) to participate in the new certification election to be held among the employees of the U.S. Tobacco Corporation, which election the said CIR is hereby ordered to reschedule as soon as possible. No costs.

Concepcion, C.J., Reyes, Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] The PTGWO's and the FOITAF's separate petitions for certiorari contesting the said resolution were dismissed in G.R. No. L-32161, prom. July 3, 1970 and L-32168, prom. July 3, 1970, respectively.

[2] "Sec. 2. Intervention. - A person may, before or during a trial, be permitted by the court, 'in its discretion, to intervene in an action, if he has legal interest in the matter in litigation, or in the success of either of the parties, or an interest against both, or when he is so situated as to be adversely affected by a distribution or other disposition of property in the custody of the court or of an officer thereof.'" (Rule 12)

[3] Luzon Stevedoring Co. vs. CIR, G.R. No. L-16682, July 26, 1963; Manila Metal Caps & Tin Cans Mftg. Co. vs. CIR, G.R. No. L-17578, July 31, 1963; LUZTEVECO vs. CIR, G.R. No. L-17411, May 19, 1966.

[4] Ang Tibay vs. CIR, 40 O.G. 7th Supp. 29, 35-38.

[5] Cf. Citizens Labor Union (CLU) vs. CIR, et al., G.R. No. L-24320, Nov. 12, 1966, 18 SCRA 624, 632-635.

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