

ELEGANCE, INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, AÍDA FLORENTINO, RUFINO TRINIDAD, MARIA IGNACIO, AURORA TRINIDAD, EMERENCIANA SUNGA, CEFERINA IGNACIO, LORENZA DIRE...

G.R. No. L-24096. April 20, 1971

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This petition, filed both as a special civil action and by way of appeal, seeks a reversal of the decision of the Court of Industrial Relations in Case No. 2379-ULP, ordering herein petitioner to reinstate private respondents, with backwages until reinstatement.

The facts, as found by the Court of Industrial Relations, are as follows: Prior to the dispute which gave rise to this case, herein private respondent — fourteen in all — were employees of petitioner Elegance, Inc. and members of the PES Labor Association. In a certification case (No. 713-MC) filed by the said Association, the Elegance Employees and Workers Union, one of the intervenors therein, was certified by the Court of Industrial Relations as the exclusive bargaining representative of the employees of petitioner. By virtue of this certification petitioner and the Elegance Employees and Workers Union entered into a collective bargaining contract on March 2, 1960, containing the following provision:

"SEC. 3 - The COMPANY agrees to a UNIONSHOP; All present employees and workers in the bargaining unit who are not now members of the Union, must become members within thirty (30) days after the signing of this agreement as a condition of continued employment, with the exception of supervisors. If any dispute arises as to whether an employee or worker is a member of the UNION of good standing, this dispute shall be disposed of as grievance in the manner herein provided."

The subsequent events, reproduced below, are narrated in the report of the hearing examiner, which was subsequently adopted by the Court.

"The evidence further shows that after the signing of the collective bargaining agreement, a copy of the same was posted at the bulletin board of the company for all employees to see and read for themselves. Subsequently, in a letter dated April 5, 1960, the contracting union demanded from the management to dismiss from work the 14 complainants herein allegedly for failure to affiliate themselves with the union within the period provided for in the union-shop provision of the collective bargaining agreement (Exh. 'C'). The union also made threats that should respondent violate any provision of the agreement, it would not hesitate to institute the appropriate charges. So, in the afternoon of the same day (April 5, 1960), the Grievance Committee convened and discussed the demands of the union contained in the said letter together with other matters taken up during that occasion. As a result, on April 7, 1960, a notice signed by the president of the company was again posted on the bulletin board, wherein it was announced that effective April 8, 1960, the employees enumerated therein (complainants) were considered resigned from their employment (Exh. 'B').

It is claimed by complainants that their separation from the service which was effected by posting a notice on the bulletin board of the company was illegal because, although they were already members of the PES Labor Association, they, however, complied with the union-shop provision by applying for membership with the Elegance Employees and Workers Union within the prescribed period of 30 days, through a letter dated March 25, 1960, which they sent by registered mail.

An examination of the alleged letter sent by complainants showed that the same was addressed to the Elegance Employees and Workers Union, but the registry return receipt attached thereto does not show the date when the letter was received by the addressee. The end of the thirty-day period required by the union-shop is April 2, 1960. Considering that this date is so close to the time when the letter of application was sent by registered mail by complainants, the probability is that said application must have been received by the union beyond the prescribed period, hence the intervenor union decided to compel the company to dismiss complainants, x x x"

The trial judge, on his part, made the following additional observations:

"The president of the Elegance, Inc. testified that in the morning of April 5, 1960, he received the letter of intervenor union, the Elegance Employees and Workers Union, demanding for the dismissal of the 14 complainants, with the admonition that 'the union will not hesitate to institute proper charges should the management violate any of the terms of the agreement, x x x' (Exh. 2 Elegance). In the afternoon of the same day, the Grievance Committee was convened to discuss, among other matters, the said demand of the union. During that meeting, the company president stepped out to confront Godofreda Guevarra about her not joining the union. She answered him, in effect, that she would not join the union. The company president testified that this decision of Guevarra was that of all of them.'He said further:

'A. Immediately after my meeting with Godofreda Guevarra, I went back to the (grievance) meeting and it was decided that we can do something about it, we have acceded to the request of the Elegance Employees and Workers Union since they were the union.'"

"The decision to immediately accede to the union demand for the dismissal of complainants, made within several hours of the demand and without having first asked each one of them, after respondent company received the letter of April 5, 1960, whether he or she has joined the union, was, to say the least, hasty."

Petitioner has assigned two errors in the decision appealed from, namely: (1) "in holding petitioner guilty of unfair labor practice notwithstanding the fact that the dismissal of the 14 respondent laborers was in pursuance to (sic) a valid union shop clause of the collective bargaining contract; and (2) in awarding back wages to the 14 respondent laborers and in not finding that the dismissal of the aforesaid respondents was done in good faith."

In its brief petitioner does not question that part of the judgment ordering reinstatement, but merely prays that said judgment be "modified by exonerating petitioner of the charge of unfair labor practice and discarding therefrom the award of back wages."

The basic issue is whether or not the dismissal of the 14 respondents was justified in the light of the facts and circumstances. The union shop clause in the bargaining contract is clear enough. The employees must become members of the union within thirty (30) days from the signing thereof as a condition of continued employment. In case of dispute as to whether an employee is a member of the union in good standing, the dispute shall be decided as a grievance in the manner provided, that is, before a grievance committee duly constituted.

The important fact which cannot be ignored is that the private respondents did comply with the union shop provision by applying for membership with the union within the prescribed period of thirty days, by means of a letter dated March 25, 1960 and sent to the said union by registered mail. This is a finding of the court below which is not here challenged, although the same court surmised that the letter must have been received after the

thirty-day period ended on April 2, 1960. In other words, the letter had not yet been received when the union demanded of petitioner, on April 5, 1960, that the respondents be dismissed for their failure to affiliate. This fact, however, does not justify the precipitate manner in which the dismissal was carried out, much less the continued failure of petitioner to reinstate the employees involved.

In the first place, said employees were obviously not given a hearing in the grievance committee. They were not present during its deliberations, as the company president had to step out to "confront Godofreda Guevarra (one of the respondents) about her not joining the union." The other respondents had not been similarly questioned. Had they been afforded the opportunity to be heard, it stands to reason that they would have apprised petitioner of the fact that they had applied for membership in the union by means of a registered letter posted before the deadline therefor expired, or at least their definite attitude in the matter would have been clarified beyond any shadow of doubt. In the second place, after the letter of affiliation was received, the reason for the dismissal ceased to exist and reinstatement should have been the logical step to follow. Indeed petitioner does not ask in this appeal that the order of the lower court for such reinstatement be set aside, but only that the award of back wages be eliminated. In other words, petitioner in effect agrees that private respondents have the right to be reinstated; and it is therefore incomprehensible why up to the present, according to them, the order of reinstatement has not been complied with. Such failure of compliance, despite the fact that the said order is not now sought to be set aside, does not sit well with the plea for exemption from the payment of back wages.

Petitioner tries to justify its actuation by citing the alleged threat of the union to file appropriate charges against it unless the private respondents were dismissed. Such threat was not a sufficient excuse. If anything, the filing of appropriate charges would have opened the opportunity for the parties, including the employees concerned, to submit the question of their status to the Court in the light of the new bargaining contract and in the meantime avoid the drastic step taken against them. It should be noted that they were already in the service when the said contract was entered into, and that only a clear and definite showing of their failure to affiliate with the union within the period fixed for that purpose would justify their dismissal, assuming that the union shop clause was applicable to them. Even this point, however, was not altogether free from doubt at the time, for it ran counter to the spirit of the Industrial Peace Act which recognizes the right of the employees to self-organization and to form, join or assist labor organizations of their own choosing. And as a matter of fact the doubt was resolved in the case of *Freeman Shirt Manufacturing Co., Inc. et al., vs. CIR, et al.*, G.R. No. L-16561, decided on January 28, 1961, where this Court, construing a clause similar to the one involved in the case at bar, said:

"The closed-shop agreement authorized under Sec. 4 subsec. a(4) of the Industrial Peace Act abovequoted should, however, apply only to persons to be hired or to employees who are not yet members of any labor organization. It is inapplicable to those already in the service who are members of another union. To hold otherwise, i.e., that the employees in a company who are members of a minority union may be compelled to disaffiliate from their union and join the majority or contracting union, would render nugatory the right of all employees to self-organization and to form, join or assist labor organizations of their own choosing, a right guaranteed by the Industrial Peace Act (Sec. 3, Republic Act No. 875) as well as by the Constitution (Art. III, Sec 1 [6]).

Petitioner's claim of good faith is belied by the fact that after the decision in the Freeman case was promulgated some eight months after the present case was filed, petitioner still refused to reinstate the private respondents, and persisted in its refusal even after judgment was rendered by the trial Judge on October 6, 1964 and sustained by the Court en banc on January 14, 1965.

IN VIEW OF THE FOREGOING, the decision appealed from is affirmed, but subject to the proviso that whatever may have been earned by the private respondents in other employment prior to their reinstatement in petitioner's employ shall be deducted from the back wages adjudged in their favor. Costs against petitioners.

Concepción, C.J., Reyes, J.B.L, Dizon, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Villamor and Makasiar, JJ., concur.

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