

NATIONAL LABOR UNION, PETITIONER, VS. COURT OF INDUSTRIAL, RELATIONS AND DURABLE SHOE FACTORY, RESPONDENTS.

G. R. No. L-14975. May 15, 1962

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Upon appeal by the employer from a decision of the Court of Industrial Relations ordering him to reinstate three workers (Severo Santos, Emiliano Lopez and Amando Balagtas) with back wages until reinstatement, this Court, while upholding the reinstatement, resolved on May 31, 1956 (Durable Shoe Factory vs. Court of Industrial Relations, G. R. No. L-7783) to remand the case to the Industrial Court for new trial, in order to ascertain:

- (1) Whether the employer firm, Durable Shoe Factory, closed its operation or business on December 6, 1952 or continued thereafter; it being only fair that the back wages should not extend beyond the closure of business due to legitimate business reasons;
- (2) The amount of back wages due the three workers involved, by comparison with other similar workers employed, not regularly, but on a piece basis and whose work was not steady throughout the year; and
- (3) What the workers in question earned during the lay off, which should be deducted from the back wages.

After due rehearing, the Court of Industrial Relations, by a vote of 3 to 2, found that (a) the Durable Shoe Factory had ceased operations on December 6, 1952, on account of business conditions, leasing to other parties its building and machineries; and did not reopen until October, 1955; (b) that on the basis of earnings of other workers doing similar work, who were not dismissed, their back wages should be paid at P13 to P14 a week, as reported by examiner Salas, from November 2, 1950 to December 6 1952 as to Santos and Lopez, and from December 7 1950 to December 6, 1952 for Amando Balagtas; and (c) that the dismissed workers could no longer be ordered reinstated because the reopened factory used different processes in shoe manufacture.

From the decision, the National Labor Union has appealed on behalf of the three discharged laborers.

It can be seen that the issues debated at the new trial are all of fact, determined by the Industrial Court according to its appraisal of the evidence submitted to it in the course of the rehearing. It is a firmly established and well-known rule that "as long as there is evidence to support the decision of the Court of Industrial Relations, this Court should not interfere, nor modify or reverse it, just because it is not based on overwhelming or preponderant evidence. Its only province is to resolve or pass on questions of law" (Dee C. Chuan vs. Nahag, 95 Phil., 837).

The main argument raised against the majority decision is that it accepted the report of examiner Salas, based upon the payrolls of the Company, when the latter refused to produce them during the first trial of the case. We do not find this fact a sufficient ground for their rejection, there being no adequate evidence that the payrolls ultimately presented were not genuine or that they have been tampered with. The presumption that suppressed evidence is unfavorable does not apply, since the documents were actually exhibited at the second hearing.

Moreover, the majority decision also took into account other evidence besides the payrolls, such as the contracts of lease of the employer's building and machinery (Exhibits 22 and 23) between December, 1952 and October, 1955, and the testimony of witnesses regarding the closure of the Company's operations during that period. According to established doctrine, as previously pointed out, these findings of the court below, being of fact, should not be disturbed.

For the same reason, we should not alter the findings on the inability of the dismissed laborers to properly perform the tasks now required by the new processes adopted in the reopened factory. This Court can not be expected to delve into the details of manufacturing techniques, and must perforce rely on the findings of fact of the Industrial Court, limiting its appellate intervention to cases of misconstruction or misapplication of legal rules.

It is well to note that the dissenting opinion, that appellants seek to uphold, is virtually a reiteration of the findings in the original decree that was set aside by this Court in its 1956 decision (O.R. No. L-7783, *Durable Shoe Factory vs. Ct. of Ind. Relations*).

Finally, no complaint is registered against the deduction of wages actually earned during the lay off by laborers Amando Balagtas and Severo Santos. But in the case of Emiliano Lopez, who was unemployed from November 7, 1950 up to January 2, 1952, when he finally found a permanent position as a helper in the Engineering Department of Quezon City, the appellant Union claims that he should be declared entitled to full compensation during the entire period that he was unemployed, regardless of the amount of wages he subsequently earned. This argument should have been invoked in the first appeal (G. R. No. L-7783 *supra*), and now comes too late. As things now are, we are concluded by the previous ruling that the earnings obtained in other employment should be deducted from the back wages due the discharged laborers. That ruling has become final and is no longer subject to reversal or modification, being *res judicata*.

In view of the foregoing, the decision appealed from is affirmed. Costs against appellant Union.

Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes and Dizon, JJ., concur.

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