

SAN PABLO OIL FACTORY, INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND KAPATIRANG MANGGAGAWA ASSOCIATION (NLU), RESPONDENTS.

G.R. No. L-25044. February 28, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Petitioner San Pablo Oil Factory, Inc. - hereinafter referred to as the Factory - seeks the review of an order of the Court of Industrial Relations - hereinafter referred to as the CIR.

In a decision rendered, on April 30, 1963, in G. R. No. L-18270, entitled "San Pablo Oil Factory, Inc. and Werner P. Schetelig vs. Court of Industrial Relations and Kapatirang Manggagawa Association (NLU)", the Supreme Court affirmed a resolution of the CIR sitting en banc, in ULP Case No. 1350, finding the Factory guilty of discriminatory lockout and directing it to reinstate the workers concerned[1] with "back wages corresponding to the period of their unemployment as a result" of said lock-out. On August 29, 1963, the Kapatirang Manggagawa Association (NLU) - hereinafter referred to as the Union - which was the petitioner in said unfair labor practice case and of which the aforementioned workers were members - moved for the execution of the aforementioned resolution, insofar as it directed the payment of back wages. Acting on this motion, on October 9, 1963, Judge Tabigne of the CIR ordered its Examiner and Economist to determine and compute said back wages, "using as a basis x x x the wages actually earned by other employees and/or workers, doing the same kind of work, who have not been dismissed". On motion for reconsideration, filed by the Union, on January 23, 1964, the CIR en banc, with Judge Tabigne dissenting, set aside his aforesaid order, and directed that the back wages in question be computed on the basis of "any sum which they (the employees and/or laborers involved) should have earned had they not been dismissed", because "what other workers received in that abnormal operation is immaterial."

In pursuance of this resolution, the CIR Chief Examiner reported that - based upon the basic wage per day of the workers concerned immediately prior to their lockout, multiplied by the 85-working days from May 27 to September 8, 1957 - which was the duration of the lockout - the aggregate amount due to them was P54,132.25. The Factory having objected to this report, Judge Tabigne ordered the CIR Examiner, on November 9, 1964, to examine the production records of the Factory "for the purpose of determining the total number of days during the period" aforementioned, "when the Factory actually operated and milled." Soon thereafter, the examiner reported that the Factory had "actually operated and milled and produced oil and copra cake for a total of 39 days". This notwithstanding, Judge Tabigne, acting in compliance with the resolution of the CIR en banc, dated January 23, 1964, adopted the 85 calendar working days as the basis for the computation of the back wages in question, and, after deducting the amounts sought to be collected by some laborers who had not been locked out, and the earnings of other laborers during the lay-off period, ordered the Factory to deposit with the CIR the sum of P50,790.20. On motion for reconsideration of the Factory, this order was affirmed by the CIR en banc.

Hence this appeal, in which the only question raised is whether the aforementioned back wages should be

comput-ed on the basis of the working days - that is to say, excluding legal holidays - during the period of the lockout, as contended by the Union, or should be limited to the thirty-nine (39) days in which the Factory was actually in operation, during the same period.

It is obvious to us that the latter alternative is the correct one. Indeed, even if there had been no lock-out, the laborers in question could not have possibly work-ed when the Factory was not in actual operation. They could not have earned any wages except for the days of said actual operation, it being seemingly conceded that they had no month-ly salary, but were paid a daily wage for services actually rendered. And, it being undisputed that the Factory was not actually operated and did not mill except during the afore-mentioned thirty-nine (39) days, the order and the resolu-tion appealed from and the aggregate amount of the award should be, respectively, modified and reduced, accordingly.

With this modification, said order and resolution are hereby affirmed, in all other respects, without special pro-nouncement as to costs.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Regala, Makalintal, Bengzon, Zaldivar, Sanchez, and Castro, JJ., concur.

[1] Numbering 114.

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