

RIZAL CEMENT WORKERS UNION (FFW), PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND RIZAL CEMENT CO., INC., RESPONDENTS.

G.R. No. L-18442. November 30, 1962

Ponente: PAREDES, J.

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PAREDES, J.:

The antecedent facts, as found by the CIR are as follows: On September 2, 1954, Petitioner Union sent to respondent company, a letter containing a set of proposals for the purpose of entering into a collective bargaining contract with it. A reply was made by respondent on September 11, 1954, stating that it could not entertain the proposals until after Case No. 676-V, which was then pending with respondent CIR, has been finally settled, since the demands in the proposals and those involved in the pending case were the same. Petitioning Union, responding to the reply, claimed in a letter of September 24, 1954, that the proposals being submitted were distinct and separate from those litigated in Case No. 676-V. On September 29, 1954, respondent Company answered petitioner's letter and reiterated its previous stand regarding the proposals. On October 5, 1954, the Union filed with the Department of Labor, a Notice of Strike. At a conference held on October 30, 1954, with the intervention of the Conciliation Service of the Labor Department, the Union proposals were not discussed. On November 4, 1954, another Union, the Binañgonan Labor Union (NWB), presented a set of proposals with the respondent Rizal Cement Company, and after a series of conferences held by the Conciliation Service, a collective bargaining contract was entered into between respondent company and the Binañgonan Labor Union. On May 27, 1956, petitioner union declared a strike against respondent company at its plant in Binañgonan, Rizal. The dispute was certified by the President of the Philippines to the Court of Industrial Relations (C.I.R.).

In its decision, the CIR, made the following findings:—

"Undisputed facts of this case are as follows: that on May 27, 1956, petitioner declared a strike against respondent at its cement plant in Binañgonan, Rizal, where the strikers conducted their picketing; that during said strike, a Philippine Constabulary detachment was assigned in the strike area to maintain peace and order; that on February 28, 1957, petitioner, in behalf of its striking members, made an offer to respondent to return to work; that at the height of the strike, a PC officer named Lt. Emilio Simbulan was hit and struck with a piece of bamboo in the strike area on May 27, 1956; that some workers of respondent company were not able to work on May 27, 1956 because of the strike of petitioner union; that stones were hurled at the motor launch 'Carbon' of respondent, as a result of which its front windshield was broken; that Jose Alejan, timekeeper of respondent Company, was found dead along the provincial highway near the strike area; that on November 10, 1954, a collective bargaining agreement was entered into by and between respondent and intervenor; that on March 18, 1952, this Court issued an injunction order in Case No. 676-V enjoining respondent not to lockout its employees, and the employees not to strike."

* * * * *

And finally, concluded:

"Respondent argues that the notice of strike prescribed in Section 14, par. (d) of Republic Act No. 875, applies to the strike in issue. This is not so, because the present case involves a strike against unfair labor practice acts, and not an economic strike. The required 30-day notice which affords the parties cooling off period within which to settle their difference through processes of collective bargaining applies to economic strike.

"With respect to the means employed in carrying out the strike stage by petitioner union, the evidence shows that the case was generally peaceful and orderly, with the exception of some alleged isolated acts of violence committed during the height of the strike, particularly on May 27, 1956. The strike in issue was declared after a general meeting of the union members who voted viva voce in favor of it. Some of the strikers appear to have been charged in courts with criminal acts, but there was no conviction by final judgment against any of them. This being the case, and aware of the fact that passions and emotions are running high at the heat of the strike, it is believed that a certain degree of reason and fairness be afforded the strikers who are seeking to vindicate the wrongs committed against them. Consequently, this Court finds the strike in question justified.

"WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATIONS this court hereby orders the respondent company to reinstate all the striking members of petitioner union to their former positions or substantially equivalent positions, without back wages."

Petitioner Union sought a reconsideration of the above decision in so far as it did not award back wages, contending that same is contrary to law and the evidence on record. Likewise, the respondent Rizal Cement Company moved for a reconsideration of the judgment, insofar as it considered the strike justified. On January 16, 1961, the CIR, en banc, denied both motions, with two Judges taking no part. Only the petitioner Union appealed to this Court.

In the petition for Review, the Rizal Cement Workers Union contend, in the main, that since the respondent CIR found the strike justified, it was error on its part not to award back wages and urged a modification of the decision sought to be reviewed so as to include strike-duration-pay (back wages). It is claimed that—

- (1) Depriving employees of wages they should have earned but did not as a consequence of a lockout is a violation of Section 15 of Republic Act No. 875, amounting to lack of jurisdiction;
- (2) Denial of back wages to locked-out employees is a desecration of the express policies of the Magna Charter of Labor; and
- (3) Divesting locked-out employees of back pay is a total disregard of all Philippine jurisprudence as well as American on the subject matter.

Respondents Court and Company filed separate Answers and, after the customary admissions and denials, maintained that it was within the broad powers of the CIR to award or not to award back wages, as the facts and circumstances of the case warrant; that there was no lockout; and although the respondent Court found that the strike was characterized with violence, it nevertheless justified said strike by tolerance, by giving the strikers certain degree of reason and fairness, for passion and emotional outbursts. Respondent company further maintained that the review has become academic and moot, since the decision sought to be reviewed has already been implemented and/or executed, in that the strikers affiliated with the petitioner union, had returned to work and respondent company has reinstated them to their former positions or substantially equivalent positions, as ordered by respondent court; that under the circumstances, petitioner is now estopped from or has waived the right to question the legality or validity of the decision.

It becomes, therefore, manifest that the issues raised by the petitioner center on whether or not its members are entitled to back wages.

Petitioner principally based its claim for back wages on the theory that there was a lock-out or "virtual lockout",

which prevented them to work. The law (Act No. 875), provides—

"Sec. 15. Violation of Duty to Bargain Collectively.—It shall be unlawful for any employer to refuse to bargain collectively with the representative of his employees, or to declare a lockout without having first bargained collectively with the representatives of his employees, in accordance with the provisions of this Act. Any employee whose work has stopped as a consequence of such lockout shall be entitled to backpay. * * *

It will thus be seen that under the above provision, the lock-out referred to is that which is committed by the employer, if it refused to give work to its workers. No finding was made by the CIR on the question of lockout. That there was no lockout is clear from the observations of the respondent court, when it said: "the striking union decided on this question of strike which was carried out and maintained by picketing the respondent's cement plant at Binañgonan, Rizal". The offer to return to work made by the members of the petitioner, did not make the refusal to accept the same, a lockout. This is so because the case on the legality or not of the strike was then pending decision by the CIR and said Court did not issue any order in connection with said offer. The strike which was openly and publicly declared by the petitioner union on May 27, 1956, can not be converted into a pure and simple lockout, by the mere expedient of filing before the trial court a notice of offer to return to work, during the pendency of the labor dispute. Petitioner alleges that said refusal to accept them, constituted a "virtual lockout". The law does not provide for a virtual lockout. But assuming, that the non-acceptance of the unconditional offer to return to work was virtual lockout, still the circumstances of the case would not justify the demand that the strikers are entitled ipso jure to back wages. This is so because the respondent court found that the strike was attended by isolated acts of violence committed by the strikers, and stated, in the same breath, that certain degree of reason and fairness be accorded the strikers. Thus respondent Court stated in its Answer—

"* * * When this statement is preceded with an earlier statement made of the awareness of the Trial Court of the fact that passions and emotions run high at the heat of the strike, it is then clear that such judicial pronouncement is based on the broad powers of respondent to adjust the parties in order to arrive into a happy solution of their dispute. If respondent Court has the power to adjudge a strike legal, even as it is attended with violence, personal injuries or damage to property, and this is not disputed in this case, then with equal reason respondent Court could also declare that such strikers may be reinstated without backwages. It could not be denied that the strikers failed to earn the wages they ought to have received when they offered to return to work but not accepted; but it likewise could not be denied that because of the strike and how it was carried out, the employer also suffered. The Decision and the En Banc Resolution disputed, therefore, simply placed the parties in a situation where one gamed none for the fault of the other and vice-versa. This is in accordance with section 13, in relation to Section 20, of Commonwealth Act No. 103, as amended, the effectivity of which is revived upon the certification of the labor dispute by the President to respondent Court (*Compania Maritima, et al., vs. Phil. Marine Radio Off. Assn.*, G.R. No. L-10115, decided Oct. 31, 1957).

Inasmuch as the present case has been certified by the President of the Philippines to the CIR, said Court is authorized to exercise its powers of arbitration under the provisions of Act No. 103 as amended, including the fixing of the terms and conditions of employment which embrace reinstatement of the strikers, with or without back wages.

"* * * upon certification by the President under Section 10 of Republic Act No. 875, the case comes under the operation of Commonwealth Act No. 103, which enforces compulsory arbitration in cases of labor disputes in industries indispensable to the national interest when the President certifies the case to the Court of Industrial Relations. The evident intention of the law is to empower the Court of Industrial Relations to act in such cases, not only in the manner prescribed under said Act No. 103, but with the same broad powers and jurisdiction granted by that Act. If the Court of Industrial Relations is granted authority to find a solution in an industrial dispute and such solution consists in the ordering of employees to return back to work, it cannot be contended that the Court of Industrial Relations does not have the power or jurisdiction to carry that solution into effect.

And of what use is its power of conciliation and arbitration if it does not have the power and jurisdiction to carry into effect the solution it had adopted. Lastly, if said court has the power to fix the terms and conditions of employment, it certainly can order the return of the workers with or without backpay as a term or condition of employment." (Phil. Marine Radio Officers' Association vs. CIR, et al., 102 Phil., 373). (Italics supplied).

The doctrine enunciated above, finds a fitting application to the case at bar.

Finding no reasons, cogent or otherwise, to alter the decision appealed from, or to declare that said respondent had committed abuse of discretion, in not awarding the backpay claimed by the Union, the petition is dismissed and the said decision is affirmed, with costs against the petitioner.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala, and Makalintal, JJ., concur.

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