

CONFEDERATION OF UNIONS IN GOVERNMENT CORPORATIONS AND OFFICES (CUGCO) AND GERONIMO Q. QUADRA, PETITIONERS, VS. ABELARDO SUBIDO, ACTING COMMISSIONER OF CIVIL SERVICE, TOMAS P. M...

G.R. No. L-22723. April 30, 1970

Ponente: DIZON, J.

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DIZON, J.:

This is an original petition for prohibition, with a prayer for the issuance of a writ of preliminary injunction filed by (1) Confederation of Unions in Government Corporations and Offices (CUGCO), (2) Philippine Charity Sweepstakes Employees Association (PCSEA-CUGCO) and (3) Geronimo Q. Quadra, against Abelardo Subido in his capacity as Acting Commissioner of Civil Service, Tomas P. Matic, Jr., Government Corporate Counsel, Pedro M. Gimenez, Auditor General, and Philippine Charity Sweepstakes Office (PCSO), praying that, upon the reasons therein set forth and after due proceedings, judgment be rendered as follows:

"(a) Give due course to this PETITION.

"(b) That an order be issued commanding the respondent Government Corporate Counsel to desist from proceeding in the administrative investigation instituted against petitioner GERONIMO Q. QUADRA to be conducted on April 23, 1964 and for respondents from further proceeding administratively against the members of the petitioner unions who are employed in the Legal and Auditing Departments of the Philippine Charity Sweepstakes Office, and in the other government-owned or controlled corporations during the pendency of this petition.

"(c) That after hearing on the merits, to command the respondents to desist from proceeding with the administrative investigation that has been commenced against petitioner GERONIMO Q. QUADRA and against the members of the petitioner unions who are employed in the Legal and Auditing Departments of the Philippine Charity Sweepstakes Office and other government-owned or controlled corporations who have refused to resign their membership from the petitioner unions or to renounce the benefits they are receiving and enjoying under the Collective Bargaining Agreements.

"The petitioners pray for any other remedy as may be just and equitable in the premises."

The Philippine Charity Sweepstakes Employees Association (PCSEA-CUGCO), however, filed on July 21, 1965 a motion to be allowed to withdraw as party-petitioner. Said motion was granted in our resolution of August 5 of the same year.

On April 30, 1964 ACA WORKERS ASSOCIATION and ACA SUPERVISORS ASSOCIATION filed a motion praying that they be allowed to intervene. Finding the reasons alleged in support thereof to be sufficient, their intervention was allowed.

While the petition was given due course, no writ of preliminary injunction was issued. Moreover, on July 16,

1965 petitioner Quadra filed an urgent petition for the issuance of a writ of preliminary prohibitory and mandatory injunction to prohibit the respondents from enforcing the decision of the Commissioner of Civil Service rendered on July 14, 1965 in AC No. R-28341 against him, and/or to compel said respondents to reinstate him, if said decision had already been enforced. This motion was denied in our resolution of July 20 of the same year.

The facts upon which the remaining petitioners base their right to the reliefs prayed for in the petition are set forth in the latter as follows:

"5. That the respondent PCSO as early as August 18, 1956, and up to the filing of this PETITION, has recognized the petitioner PCSEA (CUGCO) represented by petitioner GERO-NIMO Q. QUADRA, as PCSEA (CUGCO) President and CUGCO General Secretary, as the sole and exclusive bargaining agent for all personnel of the PCSO who are eligible for membership with the petitioner PCSEA (CUGCO) with respect to all matters involving terms and conditions of employment, especially on salaries and/or rates of pay, a copy of the latest Collective Bargaining Agreement entered into between the PCSO and the PCSEA (CUGCO) is here to attached as ANNEX 'A' of this petition.

"6. That on March 23, 1964, the respondent Abelardo Subido, Acting Commissioner of Civil Service, issued a Memorandum-Circular to the 'AUDITOR GENERAL, THE GOVERNMENT CORPORATE COUNSEL, AND ALL CHAIRMEN OF BOARDS AND GENERAL MANAGERS OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS PERFORMING PROPRIETARY FUNCTIONS,' RULING that under Rep. Act Nos. 2266 and 2327, the Auditor General and the Government Corporate Counsel are considered the employers of the personnel employed in the Auditing as well as in the Legal Departments of government-owned and controlled corporations although they perform proprietary functions and that in view thereof he directs and orders the Auditor General, the Government Corporate Counsel, and all the Chairmen of the Boards, and General Managers of Government-owned or controlled corporations performing proprietary functions to require all union members of the petitioner unions employed in the Auditing and Legal Departments of said government corporations to sever their from the legitimate employees local unions therein and to renounce all collective bargaining benefits or face actions, the severest penalty of which shall be dismissal from the service. A copy of this Memorandum-Circular is hereto attached as ANNEX 'B' of this petition.

"7. That on April 1, 1964 the respondent Auditor General in Memorandum-Circular No. 487, ORDERED 'ALL CHAIRMEN OF THE BOARDS OF DIRECTORS, MANAGING HEADS AND AUDITORS OF GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS PERFORMING PROPRIETARY FUNCTIONS, AND OTHERS CONCERNED' to comply with the aforesaid Memorandum-Circular No. 15 of the respondent Acting Commissioner of Civil Service.

"8. That on April 2, 1964, the respondent Government Corporate Counsel, wrote a letter to the Board of Directors and General Manager of the Philippine Charity Sweepstakes Office, inviting their attention to the Memorandum-Circular No. 15 of the respondent Acting Commissioner of Civil Service and DIRECTING all lawyers employed in the Legal Department of the PCSO to sever their membership with the petitioner PCSEA (CUGCO) and to renounce at once all benefits said lawyers are receiving and enjoying under the Collective bargaining agreement entered into between the PCSO and the PCSEA (CUGCO) and failure to secede from the union or to renounce the benefits they are receiving and enjoying under the Collective Bargaining Agreement shall be a ground for disciplinary action, the severest penalty of which shall be dismissal from the service. A copy of this letter is hereto attached as ANNEX 'C' of this petition.

"9. That on April 10, 1964, the Corporate Auditor of the Philippine Charity Sweepstakes Office wrote a letter to the President of the Philippine Charity Sweepstakes Employees Association requiring compliance with the Memorandum-Circular of the Auditor General. A copy of this Circular and letter are hereto attached as ANNEXES 'D' and 'D-1' of this petition.

“10. That on April 13, 1964, the petitioners sent to the Board of Directors, thru the Acting General Manager of the Philippine Charity Sweepstakes Office and the Auditor General thru the PCSO Corporation Auditor, a reply protesting to the actions of the respondent Acting Commissioner of Civil Service, the Auditor General and the Government Corporate Counsel. A copy of said letter-memorandum is hereto attached and integrated as ANNEXES ‘E’ and ‘E-1’ of this petition.

“11. That notwithstanding said protest the Government Corporate Counsel thru his assistant on the same date, instead initiated administrative proceedings against the petitioner GERONIMO Q. QUADRA, and for him to appear and submit for investigation, the hearing of which is scheduled to be held at the Office of the Government Corporate Counsel on April 23, 1964. A copy of this Order and complaint is hereto attached as ANNEXES ‘F’ and ‘F-1’ of this petition.

“12. That in view of the above-stated Circulars of the respondents, members of the affiliate local unions of the CUGCO who are employed in the Auditing and Legal Departments in the various government-owned or controlled corporations performing proprietary functions, stand to lose their employment (let alone all the benefits that would be lost which they are now receiving and enjoying under a Collective Bargaining Agreement as well as the other resultant benefits and incidents of union membership), UNLESS they follow the directives of the respondents requiring them sever their membership, with the local employees unions and to renounce all the benefit they are now enjoying under the Collective Bargaining Agreement within seventy-two (72) hours from receipt of notification to that effect as contained in the circulars of the respondents Acting Commissioner of Civil Service Auditor General and the Government Corporate Counsel above-mentioned.

"In the PCSO alone, there are about ONE HUNDRED TWENTY (120) members of the petitioner unions employed in the Legal and Auditing Departments of the said Office who are adversely affected by the directives of the respondents.

“13. That because of the Memorandum-Circular of Abelardo Subido, the respondent Government Corporate Counsel Tomas P. Matic, Jr. is subjecting petitioner GERONIMO Q. QUADRA, the principal leader of the afore-mentioned petitioner unions to an administrative proceedings in connection with his union activities as PCSEA (CUGCO) President and as General Secretary of the CUGCO where he appeared in the Court of Industrial Relations in Case No. 2701-ULP, PCSEA (CUGCO-KMP) vs. PCSO, Case No. 3442-ULP, CUGCO & PCSEA VS. PCSO & IGNACIO SANTOS DIAZ, and Case No. 3076-ULP, MAGALIT, ET AL vs. PCSEA, et al. of which the latter now is pending consideration on appeal before this Honorable Tribunal in G.R. No. L-20448, entitled MAGALIT, et al vs. CIR, PCSEA, QUADRA, et al.

“14. That the proceedings of the respondents Government Corporate Counsel and Auditor General occasioned by the Memorandum Circular of the Acting Commissioner of Civil Service to subject members of the petitioner unions and petitioner GERONIMO Q. QUADRA to administrative proceedings is without jurisdiction, in excess of their jurisdiction and conducted with grave abuse of discretion."

From the above facts and the prayer for relief contained in the petition, it appears that petitioners main objective is to prohibit respondents, particularly the Government Corporate Counsel, from proceeding with the administrative investigation against petitioner Quadra, and to prohibit them further from taking any administrative or punitive action against the personnel of the auditing and legal staffs of government owned or controlled corporations who had not complied with Memorandum Circular No. 15, series of 1964 of respondent Commissioner of Civil Service by severing their connection with the Unions existing in said corporations affiliated with CUGCO.

It is not disputed that on March 23, 1964 the respondent, the Acting Commissioner of Civil Service, issued Memorandum Circular No. 15, series of 1964, whose pertinent portion reads as follows:

"In view of the foregoing, all personnel of the General Auditing Office as well as of the legal staffs of all

government-owned or controlled corporations are hereby declared to be embraced in the Civil Service and they belong either to the classified or unclassified service unless otherwise provided by law. They are therefore not within the coverage of Memorandum Circular Nos. 1 and 3, current series, of this Office. Appointments of these personnel should be forwarded to this Office for approval in accordance with the Civil Service Law and Rules.

"The said personnel may belong to any labor organization which does not impose the obligation to strike or to join strikes. If any of these personnel have previously joined any labor union which imposes the obligation to strike or to join strikes, he should sever his membership within seventy-two (72) hours from receipt of this Memorandum Circular by the corporations concerned. Moreover, if any member of the legal staff of said corporations is receiving benefits under a collective bargaining contract entered into between management and the union, he should renounce such benefit at once. Failure to secede from the union which imposes the obligation to strike or to join strikes or to renounce the benefits of the collective bargaining agreements shall be a ground for disciplinary action for conduct prejudicial to the best interest of the service, the severest penalty of which shall be dismissal from the service.

"New appointments should be issued to employees who have renounced benefits under a collective bargaining contract, which must conform with the Civil Service Law and Rules, and submitted to this Office for approval.

"A list of personnel covered by this Memorandum Circular should be submitted to this Office within thirty (30) days from receipt hereof by the corporations concerned."

Neither is it questioned that on April 1, 1964 the Auditor General issued his own Memorandum Circular No. 487 ordering all chairmen of the board of directors, managing heads and auditors of government owned or controlled corporations performing proprietary functions, and others concerned, to comply with Memorandum Circular No. 15 mentioned heretofore, and that sometime prior to April 23, 1964 the Government Corporate Counsel initiated administrative proceedings against petitioner Quadra for misconduct in office and/or conduct prejudicial to the service.

In so far as the present action was intended to prohibit the respondent Government Corporate Counsel and the respondent Commissioner of Civil Service from continuing with the administrative investigation against Quadra (AC No. R-28341), the same has practically become moot and academic because on July 14, 1965 the aforesaid Commissioner of Civil Service rendered judgment in said case finding Quadra "guilty as charged", and imposed upon him "the penalty of dismissal from the service effective upon receipt of this decision" (record pp. 134 and 137). Moreover, from the facts stated in said decision, it appears that the charges investigated in that administrative case have no bearing upon Memorandum Circular No. 15 because they involved Quadra's actuations as Chief Legal Officer of the Philippine Charity Sweepstakes Office. Specifically he was charged with having represented in several particular cases interests adverse to the Philippine Charity Sweepstakes Office of which he was the Chief Legal Officer; with neglect of duty and practicing his profession as lawyer without permission from competent authority; all in violation of pertinent provisions of the Civil Service Law, rules and regulations.

The above notwithstanding, of course, the main question raised in the petition remains, and it is whether Memorandum Circular No. 15, series of 1964, issued by the respondent Commissioner of Civil Service, is valid. While, on the one hand, petitioners claim that said respondent had no authority nor jurisdiction to issue said circular; that the provisions thereof are in violation of the Constitution and of pertinent laws guaranteeing their right to form associations or societies for purposes not contrary to law and the right of government employees and workers to form, join and assist labor unions of their own choosing for the purpose of collective bargaining, and to engage in concerted activities to secure and effect changes or modifications in their terms and conditions of employment, on the other hand, the respondents contend that the questioned memorandum circular was issued to

give life to the civil service law and related legislations, particularly Republic Act No. 2266, affecting the auditing personnel in government owned or controlled corporations, and Republic Act No. 2337, as amended by Republic Act No. 3838, affecting the legal staffs of said corporations.

We agree with respondents' view.

Under the provisions of Republic Act 2266 the Auditor General appoints and fixes the salaries and the number of the personnel to assist his representative in government owned and controlled corporations, although the expenses for the maintenance and operation of the Auditing Office are to be borne by the corporations. On the other hand, under Section 1 of Republic Act 2327, as amended by Republic Act No. 3838, the position of Government Corporate Counsel is made "distinct and separate from the office of the Solicitor General" and is made the principal law officer of all government owned or controlled corporations, and exercises control and supervision over all legal divisions maintained separately by said corporations.

Clearly deducible from the foregoing is that the personnel of the auditing staff in the different government owned or controlled corporations are under the office of the Auditor General, while those of the legal staff of said corporations are under the office of the Government Corporate Counsel, and that all of them are embraced and covered by the civil service law, whether they belong to the classified or the unclassified service. This view is in line with our ruling in *National Marketing Corporation etc. vs. CIR and PRISCO Workers Union et al.* (G.R. No. L-17004, January 31, 1963) where We held as follows:

"We agree with appellants that members of the auditing force can not be regarded as employees of PRISCO in matters relating to their compensation. They are appointed and supervised by the Auditor General, have an independent tenure, and work subject to his orders and instructions, and not to those of the management of appellants. Above all, the nature of their functions and duties, for the purpose of fiscal control of appellants' operations, imperatively demands, as a matter of policy, that their positions be completely independent from interference or inducement on the part of the supervised management, in order to assure a maximum of impartiality in the auditing functions. Both independence and impartiality require that the employees in question be utterly free from apprehension as to their tenure and from expectancy of benefits resulting from any action of the management, since in either case there would be an influence at work that could possibly lead, if not be positive malfeasance, to laxity and indifference that would gradually erode and endanger the critical supervision entrusted to these auditing employees."

While the ruling cited above affected members of the auditing force working in government owned or controlled corporations, it should likewise apply to the case of the personnel of the legal staffs or divisions of the same corporations, for obvious reasons.

But petitioners claim that the questioned circular is unconstitutional because it violates their right to form or join associations or labor unions of their choice. We believe otherwise. It is worth remembering that the right to form and join associations and unions is not absolute or unlimited. Thus, if a person accepts employment that falls under the civil service law and his employer performs governmental functions - such as the General Auditing Office and the Government Corporate Counsel's Office - he may not resort to and exercise the right to strike, because that is prohibited by law. Having accepted the employment freely and being chargeable with knowledge of the fact that he has no right to resort to strike to enforce his demands against his employer, his only recourse is either to respect and comply with that condition or resign.

IN VIEW OF ALL THE FOREGOING, the writ prayed for is denied and the petition for prohibition under consideration is dismissed, with costs.

Concepcion, Reyes, JBL, Makalintal, Ruiz Castro, Fernando, and Teehankee, JJ., concur.

Zaldivar and Villamor, JJ., took no part.

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