

PABLO A. VELEZ, PETITIONER, VS. PAV WATCHMEN'S UNION AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-12639. April 27, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is a petition for review, by writ of certiorari, of a decision of the Court of Industrial Relations, Petitioner Pablo A. Velez is the owner, operator and manager of the Pablo Velez Special Watchmen's Agency, hereafter referred to as the Agency, a business enterprise engaged in rendering ship security service. Respondent Pablo A. Velez Watchmen's Union is a legitimate labor organization, duly registered in the Department of Labor, on July 13, 1953, whose members are watchmen of said Agency. Upon its behest a complaint for unfair labor practices was filed on September 23, 1953, against the petitioner, by the Acting Prosecutor of the Court of Industrial Relations. After appropriate proceedings, the court rendered a decision finding him guilty of the charge. The dispositive part of said decision reads:

"WHEREFORE, the respondent, Pablo A. Velez, is ordered and/or directed—

- To cease and desist from further committing the unfair labor practice acts found committed herein;
- To make Jesus Cabagnot, Ildefonso Aguirre and Isaac, de Castro whole in all their work assignment and to pay them their back salaries and wages which they failed to receive from the time they were discriminated against in the assignment of work until they are put back to their status before the dispute arose;
- To bargain collectively with complainant in accordance with the pertinent provisions of Republic Act No. 875; and
- To publish or cause the publication of this order, after It has become final and executory, in four conspicuous places in the establishment of the Pablo A. Velez Special Watchmen Agency.

"The Chief of the Examining Division of this Court or his representative is therefore hereby directed to go to the premises of the respondent and examine such books, papers, payrolls so as to compute the back wages and salaries as have been denied to, and not received by Jesus Cabagnot, Ildefonso Aguirre and Isaac de Castro, from July 1, 1953 at the rate of P100.00 a month, August 7, 1953 at P140.00 and June, 1953, respectively, by virtue hereof, and to submit his report to the Court, as soon as possible for further disposition.

"The rate of pay or salary of de Castro may also be determined from such papers and document herein mentioned."

This decision was, on motion for reconsideration, filed by petitioner herein, affirmed by said court, sitting en banc, "with the sole modification that in the computation of the back wages and salaries of Jesus Cabagnot, Ildefonso Aguirre and Isaac de Castro, the basis should be the average wages or salaries earned by said persons for the three-month period immediately preceding their layoff, it appearing that they did not work continuously during regular days because of the very nature of their employment"

Hence, the present petition for review upon the ground that the lower court erred:

- In finding him guilty of unfair labor practices;
- In ordering him to bargain collectively with respondent union;
- In holding that the relation of employer and employee exists between him and the members of the respondent union; and
- In ordering him to make Jesus Cabagnet, Ildefonso Aguirre and Isaac de Castro whole in their work assignment and to pay them their back salaries and wages.

With respect to the first question, the lower court found that petitioner had been:

- Interfering with and restraining the organization of respondent union;
- Requiring, as a condition of employment withdrawal from respondent union, and discriminating against some members in regard to term and/or condition of employment to discourage membership with respondent union; and
- Initiating, assisting in or interfering with the formation of and supporting the Manila Bay Watchmen's Association.

These findings are borne out by the record. It appears that while one Jose Santos was asking some watchmen of the Agency to join respondent union, on July 23, 1953, at the Master's Cafe, in Pasay City, petitioner demanded delivery of the affiliation papers he (Santos) had and Court of Industrial Relations with him. When Santos refused to yield the same, petitioner called him a trouble-maker and threatened him with bodily harm. This fact was established by the uncontradicted testimony of Santos, who was corroborated by Pedro F. Fajardo.

Moreover, since July 17, 1953, Jesus Cabagnet, president of respondent union, and other members thereof tried to see the petitioner for the purpose of showing him the certificate of registration of respondent union and obtaining its recognition by him, but they did not find him in his office. So, they advised his secretary that they would come back the next day, and they did so, with the same result. When Cabagnet, and his aforementioned co-members of the union eventually saw him in his office, on July 20, 1953, petitioner did not listen to their representations. Instead, he caused them to be arrested upon the charge that they were making trouble in his office under the excuse that his wife had told him that they were armed and intent on harming him, although no overt act to this effect appears to have been performed by them.

Again, while Ildefonso Aguirre was in the office of petitioner herein, on July 7, 1953, the latter asked him whether he formed part of respondent union, Aguirre replied in the affirmative, whereupon petitioner inquired whether he wanted to continue working with the Agency. As Aguirre answered that he did, petitioner bade him to resign from respondent union, stating that it was the only way by which he (petitioner) could tell whether Aguirre was for or against him. Fearing to lose his job, Aguirre signed a prepared resignation paper then presented to him. Aguirre's testimony to this effect has not been contradicted.

On still another occasion, petitioner told Isaac de Castro to resign from respondent union, for, otherwise, he would have no work assignment. Hence, Castro signed four (4) copies of a prepared affidavit renouncing his membership with said union.

The record further shows that, before petitioner had learned that Jesus Cabagnet, Ildefonso Aguirre and Isaac de Castro were members of respondent union, these watchmen used to have regular work assignment. However, when he failed to dissuade them from pursuing their union activities, they were bypassed in the work assignments. Petitioner would have us believe that watchmen work on rotation basis and that his policy was to give preference

in the assignment of work to those who have no other job than that of the Agency. However, it appears that there were sufficient vessels necessitating the services of all of the watchmen of the Agency. In fact, its working force had to be augmented, to meet the increasing demands of shipping companies. It is clear, therefore, that the aforementioned members of respondent union were discriminated against in regard of the term and/or condition of employment owing to their union activities.

Then, too, on July 18, 1953, Aguirre overheard petitioner talking to his secretary and one Pimentel regarding the formation of another union. The next day, the organizational meeting of the Manila Bay Watchmen's Association (MBWA) was held in the Agency, during office hours in a room adjoining that of petitioner herein. In this meeting he spoke and promised to help in securing the certificate of registration of the MBWA. When Aguirre inquired whether he could join this union, petitioner replied that he should first resign from respondent union. The fact that MBWA was organized by him to offset the influence of respondent union is further evidenced by the fact that, on July 25, 1953, he advised Aguirre: "tell them that we also have a frame like yours," referring to the certificate of registration of the MBWA.

The foregoing acts of petitioner herein clearly constitute unfair labor practices.

The second issue raised by petitioner is a consequence of the first. Accordingly, it is as untenable as the same, it appearing clearly that the MBWA was instigated, initiated and organized by petitioner herein for the purpose and Court of Industrial Relations of frustrating the demands of respondent union and crippling the same. Upon the other hand, respondent union is a legitimate labor organization, and, as such, it is entitled to recognition and to bargain collectively with petitioner herein.

Petitioner insists that he is not an employer, but a mere agent, to recruit watchmen for shipping companies, which are, he claims, their employers. Pursuant, however, to section 2(c) of Republic Act No. 875, "the term employer includes any person acting in the interest of an employer, directly or indirectly * * *", and, hence, petitioner herein falls squarely within the purview of this definition. Besides, in the course of his testimony, petitioner referred to the watchmen as employees of his Agency, and, in fact, on July 27, 1953, he entered into a collective bargaining agreement with the MBWA, to which some of his watchmen were affiliated, although this association was established subsequently to the organization and registration of respondent union.

The last issue raised by petitioner is a mere corollary of those already disposed of. Suffice it to say that section 5(e) of Republic Act No. 875 explicitly authorizes the Court of Industrial Relations, to order the reinstatement of employees who are the victims, of unfair labor practices "with or without backpay", and it appearing from the record that Cabagnot, Aguirre and Castro were not given their usual assignments on account of their union activities, it is only logical that petitioner be sentenced to pay them such compensation as they would have received had they gotten their regular assignments.

Wherefore, the decision appealed from is hereby affirmed, with costs against the petitioner. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Reyes, J.B.L., Endencia, Barrera, and Gutierrez David JJ., concur.

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