

COMPAÑIA MARITIMA, PETITIONER, VS. UNITED SEAMEN'S UNION OF THE PHILIPPINES, RESPONDENT.

G. R. No. L-9923. June 20, 1958

Ponente: BENGZON, J.

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BENGZON, J.:

Review of the order of the Court of Industrial Relations requiring Compania Maritima to reinstate 22 members of the complement of its M/V Cebu, and to give them back-pay from February 12, 1954.

In July 1953, says the order, "they were serving in the Steward Department on board the M/V Cebu, on a round trip from Manila to Jedda Mecca and vice versa. The voyage started on July 7, and the vessel returned on October 16, 1953; but instead of touching the port of origin, Manila, it proceeded to San Fernando, La Union, Where the respondent company (Compañia Maritima) disembarked and dismissed the aforesaid workers. When they reached Manila by land transportation and reported to the respondent's (Maritima's) Manila Office, they were given their pay. After the M/V Cebu arrived in Manila, it was sent to Japan for drydocking. In February of 1954, when the M/V Cebu returned to Manila from Japan they (the personnel of said vessel who were dismissed at San Fernando), petitioned the General Manager, Don Jose Fernandez to be allowed to return to their former positions on the M/V Cebu. * * *." They were given to understand that they would be reemployed if they joined the General Maritime Stevedores Union— which apparently enjoyed the goodwill of the company. However, they refused to join such Union, and consequently were not taken back. Instead, 20 new men recommended by such Union were employed to take their places.

The discharged personnel happened to belong to the United Seamen's Union of the Philippines, which took their case to the Court of Industrial Relations, asserting unfair labor practice on the part of Compañia Maritima.

After hearing the parties, said Court found the discharge and non-employment to have been caused by the men's refusal to desert the United Seamen's Union and to join the General Maritime Stevedores Union; that the company was thereby guilty of discrimination in regard to hire or tenure of employees—contrary to the provisions of Republic Act 875 sec. 4 (a) number 4. Consequently, it issued the order which is now the subject of this review.

Before the Industrial Court these defenses were presented by the company: (a) the 22 men had been engaged for only one trip, viz, Manila to Jedda and vice versa; and (b) they were called for re-employment when the boat returned from Japan, but they were out of Manila.

Said Court, however, found that all (the 22 men) had been working with the company for many years; that although they had signed shipping articles for a given voyage—expiring at the termination thereof—the practice had been to continue the employment until they were discharged (legally) or left the ship voluntarily. The second defense was discredited: the circumstances showed, and the Court of Industrial Relations declared, that they were not re-taken aboard, because they had refused to join the General Maritime Stevedores Union, which was the rival labor union of the United Seamen's, which in turn had a pending controversy with the Compañia Maritima regarding increase of wages.

At this juncture, it should be stated, there was no unanimity in giving due course to this petition for review. The majority was impressed by the allegations in the petition that these seamen were additional extra personnel, specially engaged for the Manila-Mecca voyage, who were discharge at the end of their written contract of employment, because their services as extra messmen were no longer needed. Aware of the Industrial Court's finding that they had been working with the company for many years—not specially engaged for the trip—the majority still wanted to give petitioner a chance to demonstrate that no substantial evidence of record supported such findings.[1] Nevertheless, the arguments and record before us fail to overthrow the court's factual conclusion. Indeed, the employment of other men to substitute the discharged personnel, when there was no special trip contemplated, seems conclusively to show the positions belonged to the normal payroll of the vessel—not emergency or extra positions, as petitioner represented.

As such old hands, these 22 men may not, by the mere pretext of temporarily reducing the personnel on account of drydocking, be permanently ousted when the vessel returned to resume its ordinary activities. In fact, the company's practice has been to re-take its laid-off personnel upon return of the vessel from drydocking.

What is worse in this case, it refused to follow that practice because the 22 men declined to follow its indication to join the General Maritime Services Union and quit the United Seamen's Union.

The terms of the Industrial Peace Act are clear: it is unfair labor practice for an employer "to discriminate in regard to hire or tenure of employment * * * to encourage or discourage membership in any labor organization" (Section 4 [a] Republic Act 875)—except when there is a closed-shop arrangement, which in this case has not been proven to exist.

For such unfair practice, the company may be required to reinstate the 22 workers with backpay. (Section 5 [c] Republic Act 875.) The order is affirmed, with costs.

Paras, C. J., Montemayor, Reyes, A., Bautista Angelo Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.

[1] Section 6 Republic Act 875.

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