

SURIGAO CONSOLIDATED MINING COMPANY, INC. AND SURICON EMPLOYEES & LABORERS MUTUAL ASSOCIATION (SELMA), PETITIONERS, VS. PHILIPPINE LAND-AIR-SEA LABOR UNION (PLASLU) AND COURT OF...

G.R. No. L-22970. June 09, 1969

Ponente: DIZON, J.

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DIZON, J.:

Appeal interposed by petitioner Surigao Consolidated Mining Company, Inc., hereinafter referred to as SURICON, and SURICON Employees and Laborers Mutual Association (SELMA), intervenor, from (1) an order of the Court of Industrial Relations dated March 13, 1964 in Case No. 565-V approving the reports of the Court's examiner; ordering SURICON to deposit with the Cashier of the Court the amount of P215,819.55, and ordering further that, of said amount, the sum of P172,655.64 be paid to the members of PLASLU, and that the remaining P43,163.91 be paid as fees to PLASLU's counsel; and (2) from the resolution of said court of May 5, 1964 denying the motions for reconsideration filed by PLASLU and SELMA. The latter's appeal, however, is only in so far as the appealed order and resolution uphold the presentation of the claims by PLASLU, its contention being that it is the one duly authorized by the employees and laborers of SURICON to enforce their demands.

SURICON is the respondent in Case No. 565-V, while SELMA, a duly registered labor union, intervenor, and PLASLU, a duly organized and registered corporation under Philippine laws, the complainant therein.

On April 23, 1951 PLASLU filed with the CIR a petition containing a set of demands, among others, for the increase of the salaries and wages of the employees and laborers of SURICON by 100% over and above their salaries and wages at that time; for the observance by SURICON of the Eight-Hour Labor Law; for the payment of the employees and laborers of SURICON who had rendered overtime work and those who had worked on Sundays and holidays, 50% over and above their respective regular rate etc.

In due time SURICON answered the petition alleging, inter alia: that over 90% of its employees and laborers were members of SELMA with whom on November 16, 1949 it had entered into a collective bargaining contract which, at the time of the filing of the petition, was still in force; that, this being so, SURICON was not in a position to consider or entertain the demands of PLASLU; that SURICON had been paying to all its employees and laborers the standard salaries and wages for employees and laborers in the mining industry in the locality and which were equal to, if not higher, than the salaries and wages fixed by the CIR for the employees and laborers of the Mindanao Mother Lode Mines, Inc.; that the economic conditions did not warrant further increases in the salaries and wages of its employees and laborers; that SURICON had not dismissed any one of its employees or laborers for union activity or affiliation, nor for membership in PLASLU.

On May 15, 1951 SELMA, with previous leave of the CIR, filed a petition in intervention alleging, among other things, that nearly all the employees and laborers of SURICON, eligible for membership in a labor organization, were and had been its members; that it had an existing collective bargaining contract with SURICON since

November 16, 1949. As a consequence it prayed for the dismissal of the petition of PLASLU and for the continued enforcement of its collective bargaining contract with SURICON.

On October 8, 1953, SURICON filed a motion to dismiss the main case upon the ground that PLASLU was not a legitimate labor union and, therefore, had no capacity to sue, and also upon the further ground that PLASLU had failed to prosecute its case for an unreasonable period of time.

Hearing of the case was set for November 25 and 26, 1953 in Surigao, Surigao. On the first date, Atty. Felix Ramirez appeared for SURICON, but nobody appeared for PLASLU, this being the reason for the cancellation of the hearing set for that day. On the following day, as Atty. Ramirez again appeared for SURICON but nobody appeared for PLASLU, the hearing went on for the reception of SURICON's evidence, albeit under the condition that its witnesses testifying on that day could be cross-examined later by the adverse party, and also without prejudice to the pre-sentation of evidence for PLASLU at some other date.

At the beginning of the hearing held before the Commissioner on November 26, 1953, Atty. Ramirez, SURICON's counsel, made the following statement:

"Now, in connection with our motion to dismiss, dated October 8, 1953, the only evidence that would be necessary to support the same is the letter of the Secretary of Labor rejecting the renewal of the permit previously granted to the petitioner. This letter is dated August 25, 1950, a copy of which is attached to the said motion. We do not have a certified copy of this letter, but we believe the Court can take judicial notice of the fact, not only because the said letter is an official document which can easily be verified, but also the fact that this question, as to the non-registration of the petitioner union, has been decided in the case entitled 'Philippine Land-Sea-Air- Labor Union versus The Court of Industrial Relations G.R. L-Nos. 5654, 5698, promulgated on September 28, 1952. In addition to our ground stated in the said motion, we would like to make another ground for the dismissal of this case based on the fact that the demands made in the petition of the petitioner have been enjoyed and are still being enjoyed by the laborers and employees of the respondent company even before the filing of this petition. For this purpose, we will present the General Superintendent of the respondent company. This evidence, however, is only to support this additional ground for dismissal and should not be interpreted as an evidence on the main case."

Thereafter Atty. Ramirez placed Mr. J. B. Harrison, general superintendent of SURICON, on the witness stand, the substance of his testimony being as follows:

"That in April, 1951, when the petition in the main case was filed, which was prior to the Minimum Wage Law, the minimum wage paid by SURICON was P2.00 a day, with some exceptions; that SURICON has been observing the EIGHT-HOUR Labor Law; that there is no overtime pay due to its workers since the year 1939 that has not been paid; that SURICON has been granting 15 days' vacation leave and 15 days' sick leave with pay to its employees and laborers who have worked 290 days during the year; that SURICON has been providing free hospitalization, medical and dental services to its employees and laborers, and has been granting maternity leave according to law; that SURICON provides housing facilities for those employees and laborers who desire to live in its houses; that SURICON has entered into a collective bargaining contract with SELMA with respect to wages and other working conditions; that the various privileges granted by SURICON to its workers prior to the filing of the petition in the main case were in accordance with the existing collective bargaining contract between SURICON and SELMA; that the present minimum wage, i.e., when he testified on November 26, 1953, that SURICON has been paying its employees and laborers was P4.00 a day; that the employees and laborers working at night have been paid an additional compensation of twenty-five cent-avos a shift; that, for eight-hour work performed on Sundays and legal holidays, SURICON has been paying 25% additional compensation; that, after a few days' trial, all the employees and laborers hired by SURICON are considered permanent employees or laborers; that SURICON has never dismissed, laid-off, suspended, or transferred any employee or laborer by reason of the commencement of the main case (t.s.n., pp. 7-21, session

of November 26, 1953)."

At a subsequent hearing held on February 25, 1954 in Manila the following took place -

"A P P E A R A N C E S

For the Petitioner:

Atty. EMILIO LUMONTAD - counsel for the Philippine Land-Air-Sea Labor Union

For the Respondent:

Atty. FELIX B. RAMIREZ - counsel for the Surigao Consolidated Mining Co., Inc.

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THE COMMISSIONER:

Are the parties ready?

ATTY. LUMONTAD:

Yes, we are ready.

ATTY. RAMIREZ:

I would like to make it of record that, as far as I can recall, the evidence presented by the respondent in this case, that the hearing held in Surigao on November 25 to 28, 1953 in the absence of the petitioner, for the purpose of showing that the demands contained in the petition have become purely academic, in the sense that said demands have, up to the time, been enjoyed by the laborers and employees of the respondent company. The following appears to have been proved by the said evidence:

That Demand No. 2 has all the time been complied with by the respondent even prior to the filing of the petition up to the present time. Demand No. 3, that the respondent gives over time pay to its laborers and employees even before the filing of the petition twenty-five per cent (25%) additional pay for overtime work done on regular days. Demand No. 4, that the respondent company have all the time been giving twenty five per cent (25%) additional pay for overtime work done on Sundays and holidays, and another twenty five per cent (25%) for night work. This also covers Demand No. 5.

ATTY. LUMONTAD:

Demand No. 5 is different

ATTY. RAMIREZ:

For night shift on Sundays and legal holidays, the company has also been giving extra pay of twenty five per cent (25%), all in accordance with law.

With respect to Demand No. 7, that all the laborers and employees of the respondent have always enjoyed even prior to the filing of the petition, fifteen days (15) vacation leave and fifteen (15) days sick leave with pay.

With respect to the Demand No. 8, the evidence also shows that all laborers and employees who have worked probational period of three (3) months are considered permanent. With respect to the Demand No. 9, the company has not dismissed, suspended or laid off or transferred any employee without any justifiable cause nor for being a member of the petitioning union. Demand No. 10, this demand has also been enjoyed even prior to the filing of the petition by the employees and laborers of the respondent company. They are given

free hospitalization, medical and dental services, and that women employees are given maternity leave in accordance with law.

The Commissioner can also take notice of the fact that the respondent maintains a hospital as well as a dental clinic within the compound of the respondent company.

With respect to Demand No. 11, the evidence also shows that all the employees and laborers of the respondent are provided free housing facilities, water supply, toilet and lighting facilities. The Commissioner, who investigated this case, can also take notice of the fact that housing and facilities I have just mentioned are provided by the company within the compound of said company. This does not include, however, the employees and laborers who, on their own volition, desire to live outside the premises where they have their own homes.

In view of this evidence, we would like to know if the petitioner desires to present any other evidence in support of those petitions.

ATTY. LUMONTAD:

Before answering the manifestation of the counsel for the respondent, I would like to request his categorical answer with respect to Demand No. 1 inasmuch as in his manifestation this demand was never touched.

ATTY. RAMIREZ:

With respect to Demand No. 1, the evidence presented by the respondent shows that at the time the petition was filed the respondent was giving a minimum wage of P3.00 which is over and above the schedule of being given by similar companies in the same locality particularly, in reference to the Mindanao Mother Lode which is a mining company operating in Surigao which, as far as I recall, gives a minimum wage in accordance with the decision rendered by the Court of Industrial Relations, giving its employees, only employees and laborers, a minimum wage of P2.75 (PLASLU vs. Mindanao Mother Lode, Case No. 644-V) which judging by said decision, the pay given to the employees and laborers by the respondent were getting much more than that award in the said case. However, with the effectivity of the Minimum Wage Law, all the employees and laborers of the respondent are getting the minimum in accordance with said law. The evidence also shows that there have been increases even after the filing of the complaint to some laborers and employees of the respondent based on efficiency, fitness and other considerations which justified their promotions.

ATTY. LUMONTAD:

The herein petitioner is withdrawing the Demand No. 6 because this demand is covered up by the Demands Nos. 3, 4 and 5. Demand No. 12 is hereby withdrawn.

With respect to the manifestation of the respondent company on Demand No. 1, this representation has no objection to his statement citing that the respondent was complying with the provisions of law even prior to the filing of the petition. The petitioner has no objection to the manifestation of the compañero on Demand No. 3. Therefore, I would like to request the compañero to answer the following:

Do we understand from the counsel for the respondent that Demand No. 2 will be granted?

ATTY. RAMIREZ:

As we have stated, this Demand No. 2 has all the time been followed by the respondent company being a requirement of law. We have, therefore, no reason to grant the same because it is a requirement of law which has been followed by the respondent company all the time.

ATTY. LUMONTAD:

In answer to the attorney of the respondent in connection with all the demands, except those withdrawn, this

representation moves that this Honorable Court to render its decision in accordance with the manifestation and evidence of the attorney of the respondent which petitioner hereby adopts as our own." (Underlines supplied).

On March 11, 1954 the CIR, through the Presiding Judge Arsenio C. Roldan, as a result mainly of the statements made in the course of the hearing held on February 25 of the same year, issued an order of the following tenor:

"This case involved petitioner's demands, to wit:

'1. That the salaries and wages of the employees and laborers of the Surigao Consolidated Mining Co., Inc. should be increased by ONE HUNDRED PERCENT (100 percent) over and above their present salaries and wages, effective on the date of demand;

'2. That the company should observe the EIGHT-HOUR LABOR LAW;

'3. That the employees and laborers of the Company who have rendered overtime work (work in excess of eight hours daily) and those who have worked on Sundays and Holidays, should be paid their corresponding salaries and wages, of FIFTY PERCENT (50 percent) over and above the regular rate, for each overtime work and work done on Sundays and Holidays, effective from the date of employment;

'4. That all the employees and laborers of the company should be granted FIFTY PERCENT (50 percent) additional salary and or wages, for the overtime work and/or for the work done on Sundays and Holidays, and another FIFTY PERCENT (50 percent) additional salaries or wages for those who are working at night;

'5. That the employees and laborers working at nightshift be given FIFTY PERCENT (50 percent) additional salaries or wages from the basic salaries or wages;

'6. That the Surigao Consolidated Mining Co., Inc. should be required to pay the back overtime rendered on regular working days, Sundays, Holidays, and nightshift works by the employees and laborers of the said company, immediately after the liberation up to the time of the filing of this demand to the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00);

'7. That all employees and laborers of the Company should be granted FIFTEEN DAYS (15) vacation leave and another FIFTEEN DAYS (15) sick leave, per annum, both leaves with pay from the time of their employment;

'8. That all the employees and laborers of the company who have worked therein for a period of THREE MONTHS (3) or more shall be considered permanent;

'9. That the company should not dismiss, suspend, lay off and transfer to another assignment any employee or laborer without justifiable cause or for being a member of the PHILIPPINE LAND-AIR-SEA LABOR UNION (PLASLU) INC.;

'10. That all employees and laborers of the company who were injured contacted sickness in line of duty be given free hospitalization, medical and dental services; women employees and laborers be given maternity leave in accordance with law;

'11. That all employees and laborers of the company be given free house, sanitary water supply, toilet and good lighting conditions;

'12. That the PHILIPPINE LAND-AIR-SEA LABOR UNION (PLASLU) INC. be recognized as the collective bargaining agency of the SURIGAO CONSOLIDATED MINING COMPANY INC.'

"At the hearing of this case on February 25, 1954, counsel for petitioner withdrew Demands Nos. 6 and 12, for reasons stated. This withdrawal is hereby approved. With respect to the other demands, counsel for petitioner manifested as follows:

'In answer to the attorney of the respondent in connection with all the demands, except those withdrawn, this representation moves this Honorable Court to render its decision in accordance with the manifestation and evidence of the attorney of the respondent which petitioner, hereby adopts as our own.'

The evidence and manifestation for respondent company however, tends to show that even before the institution of the instant case, the laborers and employees in respondent company had already been enjoying the benefits sought in all the remaining demands with the exception of Demand No. 1, regarding which counsel for the company also manifested and pleaded as follows:

(a) That at the time the petition was filed the company was giving P3.00 as minimum wage and that this minimum was over and above the schedule of wages being given by similar companies in the locality;

(b) That upon the passage of Republic Act No. 602, otherwise known as the Minimum Wage Law, the company started complying with the provisions thereof; and

(c) That increases were given to laborers and employees, even after the filing of the complaint, based upon efficiency, fitness, etc.

The Court takes the manifestation of counsel for the petitioning union as an admission of the truth and veracity of the manifestation and evidence presented by respondent company and, therefore, considers that all the disputes raised in the present case have become moot and academic.

"In view thereof, this case is hereby declared closed and terminated.

"SO ORDERED."

Both parties agree that the above order became final and executory, neither one of them having appealed from it.

On May 7, 1954, - undoubtedly on the strength of what, in its opinion, the order of March 11, 1954 meant and was intended to be - PLASLU filed a motion praying that the court order its Examiner to proceed to SURICON's establishment or office at Mainit, Surigao to examine its books of accounts, vouchers, payrolls and all other pertinent company records to determine the money value of the awards granted in the aforesaid order, and to determine further the money value of all rights, benefits and privileges granted thereby in accordance with the statement made by SURICON's counsel. Resolving said motion the CIR, in an order dated June 23, 1954, said and provided for the following:

"In order to determine whether the employees and laborers of the respondent company had been really enjoying the benefits and privileges contained in the awards of the Court dated March 11, 1954, as manifested by the counsel for the respondent, and in order to properly implement the said Order, the Chief Examiner of the Court, or any of his assistants, is hereby ordered to proceed as soon as possible to the offices of the Surigao Consolidated Mining Company, Inc., located at Mainit, Surigao, and to examine its books of accounts, the vouchers, payrolls, time books or time cards and all other pertinent records with the view to determining whether the employees and laborers of the respondent company had been actually enjoying all the rights, benefits, and privileges mentioned in the Order of the Court dated March 11, 1954; and, in case they have not been enjoying the same, to compute the money value of all such rights, benefits, and privileges from April 23, 1951, up to the present, and to submit his report as soon as possible for further disposition of the Court.

"Considering that the company has many employees and laborers who may thereby be affected and that the Court cannot afford to send more than one examiner for lack of personnel in its Examining Division, the respondent company and the petitioning union are likewise ordered to send at least three (3) representatives each to assist the examiner of the Court and to facilitate the submission of the report."

Months later, on December 27, 1954, PLASLU filed another motion praying that the court order its Chief

Examiner or one of his assistants to continue with and terminate the examination of the records of SURICON and thereafter render a complete report. In its order of August 23, 1955 resolving this motion, the CIR said and provided for the following:

"The partial report of examiner dated October 15, 1954, shows that the employees and laborers of the Surigao Consolidated Mining Company, Inc., have not been actually and fully enjoying all the rights, benefits, and privileges contained in the order of the Court dated March 11, 1954, as manifested by counsel for the respondent during the hearing of the case on February 25, 1954. The said report also laid down the bases of the computation for subsequent examinations and computations to be ordered by this Court.

"Considering the motion filed by counsel for petitioner to be well taken, the Chief Examiner of this Court or any of his assistants, is hereby directed to proceed to the premises of the Surigao Consolidated Mining Company, Inc., located at Mainit, Surigao, and continue with the examination of its books of accounts, payrolls, vouchers, time books or time cards and all other pertinent records for the purpose of determining the money value of all the rights, benefits, and privileges not actually enjoyed by its employees and laborers from April 23, 1951, up to the present, and to submit his report as soon as possible for further disposition of the Court.

"The parties are likewise hereby directed to send at least three (3) representatives each to assist the Examiner of the Court so as to facilitate the early submission of his report."

Pursuant to the abovementioned orders of June 23, 1954 and August 23, 1955 (Annexes J and K of the petition) an Examiner of the CIR examined the pertinent records of SURICON and thereafter submitted reports on the money value of such benefits as were covered by the statement made by SURICON's counsel in the latter's behalf during the hearing of the case held on February 25, 1954.

According to the record the Court Examiner submitted several partial reports, the ones particularly involved in the present petition being the 2nd, 3rd, 4th, 6th, 7th, 8th, 9th and 10th.

It is to be observed that notwithstanding the order issued by the CIR for the parties to send their respective representative to assist the Court Examiner in the examination of SURICON's books etc., and in the computation of the money value of the awards, PLASLU did not send any representative, while, on the other hand, SURICON was always represented by one of its employees designated by J. B. Harrison, SURICON's general superintendent to assist the Court Examiner. As a matter of fact, the reports contain a statement to the effect that SURICON's representative assisted the Examiner in obtaining the necessary data and in the computation of the money value of the rights, benefits and privileges not actually or fully enjoyed by the employees and laborers of SURICON, contrary to the statement made by the latter's counsel during the hearing held on February 25, 1954.

It is, however, SURICON's contention in this regard - obviously to avoid being held bound by the reports - that its representative made the computations upon which the several reports were based in the manner, procedure and upon the basis laid down by the Court Examiner, without said representative of SURICON having used his own judgment. In fact, SURICON objected to all said reports.

In the course of the hearing held thereon, the CIR directed its Examining Division, in open court, to amend the 7th and 8th partial reports by excluding all the computations prior to April 23, 1951. Having complied therewith, the Chief Examiner of the CIR submitted thereafter an amended report in which the aggregate amount of the money value of the awards was reduced to the total sum of P259,071.98.

Before the close of the hearing on the reports, the Chief Examiner was again ordered to recompute the 7th, 8th, and 9th partial reports. Having complied with this order, the Chief Examiner subsequently submitted his report of recomputation, as a result of which, the original computation of P65,002.54 and P224,243.05 of the 7th and 8th

partial reports, respectively, or a total of P289,245.59 - an amount subsequently reduced, as stated heretofore, to the total sum of P259,071.98 - was further reduced to P24,614.90, while the original computations for the 9th report amounting to P26,577.67 was also reduced to P26,440.24.

In the final analysis, therefore, the amounts covered by the partial reports in question are as follows:

"Second Partial Report:

P 80,226.94

Third Partial Report:

5,945.26

Fourth Partial Report:

30,177.62

Sixth Partial Report:

29,551.85

Seventh & Eight Partial Report:

24,614.90

Ninth Partial Report:

26,440.24

Tenth Partial Report:

18,862.74

TOTAL - - - - -

P215,819.55"

On November 19, 1960, after the hearings held on the reports, the CIR, through Presiding Judge Jose S. Bautista, rendered its decision thereon (Annex Q attached to the petition). We need not deal with this decision in detail for the reason that in a resolution of October 12, 1961 the CIR en banc set it aside. The pertinent portions of said resolution are the following:

"The only issue in this case is whether the trial court can set aside the order of March 11, 1954 and June 23, 1954 which had been affirmed by the Court en banc and the Supreme Court.

"It should be remembered that the original action arose from the twelve (12) demands for payments for increase in wages, work rendered beyond eight hours, overtime rendered during Sundays and legal holidays, increase of 50% for nightshift workers, vacation and sick leave for 15 days, and other demands which are deemed bargainable. However, on February 25, 1954 hearing, demands number six and twelve were withdrawn referring to back overtime rendered on ordinary days, Sundays and legal holidays immediately after liberation and recognition of PLASLU, respectively.

"Respondent contended that all the demands were complied with even before their filing, with the exception of demand No. 1 referring to 100% increase of wages.

"Late presiding Judge, Hon. Arsenio C. Roldan, in order to verify which of the two averments were correct pursuant to an order of March 11, 1954, issued another order on June 23, 1954.

"The Examining Division was specifically ordered to comply with the following:

- (a) Determine whether the employees and laborers of respondent company had really been enjoying the benefits and privileges contained in the awards of the Court dated March 11, 1954;
- (b) Examine the books of account, vouchers, payrolls, time books, time cards, and all pertinent records with the view of determining whether the employees and laborers had been actually enjoying all the rights, benefits, and privileges mentioned in the order of March 11, 1954;
- (c) Compute the money value of all such rights, benefits, and privileges, from April 23, 1951 up to the present;
- (d) Submit his report for further disposition.

"Respondent filed a motion for reconsideration on this order (June 23, 1954) but was denied by the Court en banc unanimously in its resolution on July 3, 1954. Having failed to secure the reversal, respondent appealed by certiorari to the Supreme Court, and again it was dismissed for lack of merit - G.R. No. L-7966."

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"Undoubtedly, the order of June 23, 1954, empowering the examining division to render a report on the equivalent money value of all their claims, except those demands withdrawn and those within the scope of bargaining negotiations, was final. Note that under the second paragraph of June 23, 1954 order, it partially stated that:

'x x x and, in case they have not been enjoying the same to compute the money value of all such rights, benefits, and privileges from April 23, 1951 up to the present, and to submit his report as soon as possible for further disposition of the Court.'

The whole order of June 23, 1954 which the above quotation was found was affirmed by the Supreme Court (G. R. No. L-7966). It became final and executory. To reopen or set aside on the Theory of 'erroneous orders', as pointed by the trial court is a total reversal of the resolution of July 3, 1954 (Resolution en banc) and the Supreme Court G.R. No. L-7966 at a time when the particular order is no longer under the jurisdiction and control of the trial court. Although the motion of respondent dated October 19, 1959 for the re-examination of the records by the same Examiner who submitted the various partial reports was granted by the trial court in its order on 4 November 1959 without a motion for reconsideration filed by petitioner, yet the Court feels that such order (4 November 59) could no longer be legally done as the original orders of March 11, 1954 and June 23, 1954 which could serve as the bases of the succeeding proceedings became final and executory.

"What is left now, if there is one, is for respondent to prove that the reported money value are not correct because it had already paid the claimants long before the institution of the present action, indeed, the examination of those books and the determination of the amount due the claimants remained uncontroverted.

"In short, the Examining Division had verified for the Court that the Company had not paid complainants - contrary to what it had manifested on February 25, 1954 hearing. Because of this finding, the burden of proof lies on the respondent to prove otherwise. But for the trial court to make another ruling that the order of June 23, 1954 is erroneous thus getting aside all other orders emanating therefrom would in effect subject the affirmation (G. R. No. L-7966 and G. R. No. L-10346) made by the Supreme Court to review by a lower court, when in fact what is left is the deliberation on the correctness of the reports for speedy disposition of this case.

"On the whole, what is left here is the determination of the correctness of the report as implementations of the orders of this Court which have as afore-mentioned become final and executory - but never to reopen the case

to the extent of setting aside the affirmed orders of March 11, 1954 and June 23, 1954, and much less to adopt an independent truism of 'erroneous orders'.

"This is not a case of asking for relief of judgment or modification of the award and/or decision of the Court as provided for by the Rules of Court and/or the organic act of this Court. The whole proceeding is on the report of the auditing division on the liability of the Company based on the finality of the orders of the Court.

"PREMISES CONSIDERED, the order of November 19, 1960 is set aside and thereafter to proceed on the hearing of the partial reports now sub-mitted, of course, with the modification on the computation that it should start from April 23, 1951 pursuant to the order of June 23, 1954."

Pursuant to the resolution of October 12, 1961 just quoted above, further hearings were held in connection with the partial reports of the Court Examiner and there-after, or more specifically on March 13, 1964, the CIR, through Judge Jose S. Bautista, issued the complained order attached to the petition under consideration as Annex A. After the motions for reconsideration filed by SURICON and SELMA had been denied by resolution of March 13, 1964, said parties perfected the present appeal.

As far as the appeal of SELMA is concerned, the following is pertinent.

To settle the issue of whether it is PLASLU or SELMA who should be recognized as the appropriate bargaining representative of the employees and laborers of SURICON since April 23, 1951 (when Case No. 565-V was commenced), and should represent them in the case, SELMA filed a petition for certification election on August 4, 1959, the same having been docketed as Case No. 681-MC of the CIR. By order of the CIR issued on December 12, 1959, the Department of Labor conducted the corresponding election, the result being that SELMA won overwhelmingly. As a consequence, in an order dated April 18, 1960, the CIR certified SELMA as the sole and exclusive representative of all the employees and workers of SURICON. This must be deemed final as to the issue between these two parties.

THE APPEAL OF SURICON

SURICON, on the other hand, poses mainly the following issues: (1) the computations ordered by the CIR - assuming that said order is correct and valid - should have been on the basis of the testimony of J. B. Harrison, SURICON's general superintendent, instead of the statement of facts by its counsel, Atty. Felix Ramirez; (2) the order of March 11, 1954 in fact awarded nothing, as shown by its dispositive portion which declared the case "closed and terminated"; (3) the CIR acquired no jurisdiction over the case because PLASLU had presented no evidence at all to prove its allegation to the effect that by reason of its demands a strike was likely to be declared.

We shall first dispose of the jurisdictional question.

PLASLU's petition in the main case alleged that by reason of the demands therein made a strike was likely to be declared. SURICON impliedly admits that this allegation was sufficient to place the case within the jurisdiction of the CIR when, to support its contention that the CIR did not "acquire jurisdiction over the main case", it relies exclusively on the fact that PLASLU had presented no evidence to prove that there was an impending strike. That no such evidence was introduced was obviously due to the fact that the parties, as well as the CIR, had assumed all along - and had acted accordingly - that such jurisdiction existed.

Moreover, while this action was commenced on April 18, 1951, it is only at this stage that SURICON raises this question of lack of jurisdiction of the CIR, this in spite of the fact that innumerable hearings were held before the CIR and the parties had even taken up their controversy to this Court.

Furthermore, SURICON, through employees duly designated, actively cooperated with the CIR and its Chief

Examiner in the examination of its own books and in the computation of the money value of the questioned awards. As a matter of fact, its only objection against the reports themselves was that they were not correctly based, meaning, that instead of the examination and computation being based on the testimony of SURICON's general superintendent, they were based on the statement made in open court by SURICON's counsel subsequent to the giving of such testimony. At the very least, therefore, it seems clear that SURICON must be deemed barred from now saying that the court had not acquired jurisdiction over the demands of PLASLU.

With respect to the proper basis which should have been used in the computation of the money value of the awards in question, it is true that there is some difference between the pertinent portions of the testimony of J. B. Harrison, SURICON's general superintendent, on one hand, and the statement in open court made by SURICON's counsel in the course of the hearing held on February 24, 1954. But it must be borne in mind firstly, that counsel's statement regarding the same matter covered by the testimony of Harrison was subsequent to the latter and, secondly, that the statement of Atty. Ramirez having been made in his capacity as counsel of record of SURICON, the same is deemed to be in the nature of a judicial admission made by him on behalf of his client.

We are, therefore, of the opinion that neither the CIR nor its Chief Examiner nor the latter's assistant committed any error in relation to this particular issue under consideration.

Finally, SURICON contends that the order of March 11, 1954 made no award of any kind and that, in fact, it considered the case "closed and terminated". This is a belated attempt to construe that order differently from what, according to the record and the subsequent conduct of the parties and of the CIR, was the real intention and meaning thereof.

It is to be noted that said order was issued not only as a result of the testimony of SURICON's general superintendent and the statement made in open court by its counsel of record, but also of the following petition made in open court by PLASLU's counsel, Atty. Lumontad, in the course of the hearing held on February 25, 1954:

"ATTY. LUMONTAD:

In answer to the attorney of the respondent in connection with all the demands, except those withdrawn, this representation moves that this Honorable Court to render its decision in accordance with the manifestation and evidence of the attorney of the respondent which petitioner hereby adopts as our own." (Underlines supplied).

It is quite apparent, We believe, that Atty. Lumontad prayed for the rendition of a judgment in accordance with the admissions made by SURICON, through its general superintendent and its counsel of record. The contested order, therefore, must be reasonably construed in the light of the foregoing circumstances. As a matter of fact, it was so construed by the CIR and the parties to the case themselves, as demonstrated by the fact that subsequent to the issuance of the aforesaid order of March 11, 1954, PLASLU filed several motions for the CIR to order its Chief Examiner or the latter's assistant to examine SURICON's corporate books etc. and to proceed to make the required computation of the money value, of the awards assumed to have been made in the contested order, to which SURICON never objected upon the ground now it relies upon. To the contrary, after the court had granted said motions, the Chief Examiner made the examination and computations required with the active assistance and cooperation of SURICON's representatives.

Moreover, the resolution of the CIR en banc of October 12, 1961 (Annex R attached to the petition under consideration) expressly states that not only the aforesaid order of March 11, 1954 but also that of June 23 of the same year, had been affirmed by the Court en banc and by the Supreme Court. This resolution became final apparently with SURICON's full acquiescence. As it will be remembered, the order of June 23, 1954 directed the Examining Division of the CIR to render a report on the equivalent money value of all the claims or demands of

PLASLU, except those which had been withdrawn - obviously to implement the previous order of March 11 of the same year.

WHEREFORE, the order and resolution appealed from being in accordance with law, the same are hereby affirmed, except that the amounts due to each of the employees and laborers of SURICON under the order appealed from should be paid to each of them through whichever duly registered Labor Union they presently belong or to the Union that has a bargaining contract with SURICON. With costs.

Reyes, J.B.L., (Acting C.J.), Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, and Barredo, JJ., concur.
Concepcion C.J., and Ruiz Castro, J., on official leave.

Teehankee, J., took no part.

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