

**PHILIPPINE AIR LINES EMPLOYEES ASSOCIATION, REPRESENTED
BY ITS PRESIDENT FORTUNATO F. BIANGCO, PETITIONERS, VS.
PHILIPPINE AIR LINES, INC. AND COURT OF INDUSTRIAL
RELATIONS, RES...**

G.R. No. L-31396. January 30, 1982

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is an original action for Certiorari, Prohibition and Mandamus with Prohibitory and Mandatory Injunction filed on December 26, 1969 by the Philippine Air Lines Employees Association (PALEA) against the Philippine Air Lines, Inc. (PAL) and the Court of Industrial Relations (CIR).

This case originated from a labor dispute certified to the Court of Industrial Relations by the President of the Philippines (Case No. 43-IPA, entitled Philippine Air Lines Employees Association (PALEA) and Philippine Air Lines Supervisors' Association (PALSA) vs. Philippines Air Lines, Inc., which was then pending with respondent Court of Industrial Relations). In said case, respondent Court issued a Return to Work Order on September 6, 1963, which, besides ordering the employees to return to work, ordered PAL not to dismiss any regular employee without prior authority from respondent Court.

PALEA alleged that, without prior authority from respondent Court, PAL dismissed 49 employees in the Maintenance and Engineering Department during the months of July and August 1969. It also sent individual notices of termination, effective at the close of office hours on September 30, 1969, to 125 regular employees in the same department for lack of work caused by the non-renewal of its maintenance and servicing contract with the U.S. Air Force.

Upon complaint of the dismissed employees and those whose services were about to be terminated, all of whom are members of PALEA, the latter, on August 7, 1969, filed with respondent Court in Case No. 43-IPA, an Urgent Petition for Injunction, with prayer for the issuance of a Restraining Order and Mandatory Injunction to restrain PAL from dismissing the employees mentioned therein and to reinstate those dismissed on July 25 and 31, 1969.[1] The Petition was not acted upon by respondent Court.

PALEA filed on August 18, 1969, an urgent Motion addressed to the Court of Industrial Relations en banc praying that the "trial Court" be ordered to hear and dispose of its Petition for Injunction dated August 7, 1969. The Court of Industrial Relations en banc also failed to act on the same.

A few other incidents, including a recourse to this Court (L-31002), which ultimately became moot and academic, transpired in the interim.

On September 29, 1969, respondent Court, through Judge Joaquin M. Salvador, issued an Order directing PAL to maintain the status quo and to desist from terminating the services of 141 employees named in the Motion.[2]

PAL filed, on October 7, 1969, its Answer and Opposition to the Application for Injunction with Counterclaim.[3] It also moved to lift the status quo Order of September 29, 1969 and to be authorized to discharge from the service the 128 (125) employees listed in its Manifestation of October 1, 1969.[4] PALEA opposed the said Motion.[5]

On December 6, 1969, respondent Court, through Judge Joaquin M. Salvador, lifted the Restraining Order of September 29, 1969, upon PAL's posting of a bond of P300,000.00 (Annex "R", pp. 102-104, Rollo).

On December 8, 1969, PALEA moved to lift the Order of December 6, 1969[6] and for reconsideration of the same.[7]

On December 10, 1969, PAL wrote PALEA stating that it was now in a legal position to effect the termination of the personnel involved, but in view of the Yuletide season, it had decided to suspend the effectivity of the lay-off until January 1, 1970.[8]

Its Motion to set aside the Order of December 6, 1969 and to reconsider the same not having been acted upon by respondent Court, PALEA filed with this Court, on December 26, 1969, the present Petition for Certiorari, Prohibition and Mandamus, praying for the immediate issuance of a Restraining Order. That Restraining Order was issued by this Court on the same day enjoining the implementation of the Court of Industrial Relations Order of December 6, 1969.

The issues in this case, as posed by petitioner, are:

“(1) Whether or not the instant petition for certiorari, prohibition and mandamus is proper and within the jurisdiction of this Honorable Court; and

“(2) Whether or not the respondent Court has acted with grave abuse of discretion which is tantamount to lack of jurisdiction when it neglected the performance of an act which the law specifically enjoins and in either or both cases there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law.”[9]

PALEA contends that this Court has jurisdiction over the instant Petition under Rule 65 of the Rules of Court and Section 17 of the Judiciary Act, and that the refusal of respondent Court to act on its Petition of August 7, 1969 for Injunction and of August 18, 1969 addressed to the Court of Industrial Relations en banc, and on its Motion to lift Order of December 6, 1969, constitute neglect of duty which warrants the issuance of a Writ of Mandamus.

PAL, on the other hand, avers that the Petition to set aside the Order of December 6, 1969 is improper, premature, and, therefore, outside the jurisdiction of this Court as PALEA's Motion to lift said Order and Motion to reconsider the same are still pending resolution before respondent Court. PAL further alleges that the case involves purely questions of fact which are disputed by the parties, and that the pendency of Case No. 43-IPA before respondent Court and the efficacy of the September 6, 1963 Order of respondent Court do not constitute a bar to its legal right to lay off the employees in question.

As a general rule, Certiorari will not lie unless an inferior Court has, through a Motion for Reconsideration, a chance to correct the errors imputed to him. This, however, admits of exceptions, namely: (1) when the issue raised is one purely of law; (2) where public interest is involved; and (3) in case of urgency.[10]

In this case, the projected dismissal of the employees concerned was to take effect on January 1, 1970. As of December 26, 1969, when this Petition was filed, respondent Court had not acted on PALEA's Motion to set aside the Order of December 6, 1969 nor on its Motion to reconsider the same. In the meantime, it was faced with the imminent dismissal of the affected employees. Plainly, urgency prompted recourse to this Court and the adequate and speedy remedy open to PALEA in the ordinary course of law was the present Petition to protect the rights of its members.

Respondent Court should have resolved PALEA's pending Motions promptly considering the urgency of the matter involved. PALEA was entitled to be seasonably apprised of whatever action respondent Court would take so that it could avail itself of the proper remedy in case of denial.

But while Certiorari is a proper procedural remedy, this Court cannot compel respondent Court to lift its Order of December 6, 1969 or to reconsider the same, for this involves the exercise of judgment and discretion. It can only compel respondent Court to act on the pending Motions one way or the other. It is an established principle that the Writ of Mandamus may not be issued to control the discretion of a Judge or to compel him to decide a case or motion in a particular way - the Writ being available only to compel him to exercise his discretion or jurisdiction.[11] The law concedes to Judges and Courts the right to decide questions according to their own judgment and understanding of the law.[12]

The propriety of the dismissal of the employees involved and the intended lay-off of the others during the pendency of Case No. 43-IPA and during the efficacy of the Order of September 6, 1963, are questions of fact that have yet to be determined by respondent Court. It should be recalled that this case is a mere offshoot of the main case, which was then pending before respondent Court.

Pursuant to Article 300 of the New Labor Code (PD 442), all cases pending before the Court of Industrial Relations on the date of the Code's effectivity (May 1, 1974) shall be transferred to and processed by the corresponding labor relations division having cognizance of the same in accordance with the procedure prescribed and the Implementing Rules and Regulations issued.

It may be that the necessity for further action by an inferior tribunal or agency no longer exists. However, considering the span of time that this case has been pending, and in order to avoid the additional delay that will ensue from a verification of the status of the principal case from the parties, it is best to write a finish to this Petition now.

WHEREFORE, the corresponding Labor Relations Division and/or proper labor agency, is hereby ordered to act on petitioner's Motion to Set Aside Order of December 6, 1969 as well as its Motion to reconsider the same, if the necessity for resolution still subsists. No costs.

SO ORDERED.

Makasiar, Fernandez, Guerrero, and Plana, JJ., concur. Teehankee, (Chairman), J., in the result.

[1] Annex "E", pp. 47-51, Rollo.

[2] Annex "M", pp. 80-81, *ibid*.

[3] Annex "O", pp. 84-93, *ibid*.

[4] Annex "P", pp. 94-98, *ibid*.

[5] Annex "Q", pp. 99-101, *ibid*.

[6] Annex "T", pp. 106-107, *ibid*.

[7] Annex "U", p. 108, *ibid*.

[8] Annex "W", p. 110, *ibid*.

[9] p. 192, *ibid*.

[10] Central Bank vs. Cloribel, 44 SCRA 307 (1972).

[11] Pio vs. Marcos, 56 SCRA 726 (1974).

[12] Santiago Labor Union vs. Tabigne, 17 SCRA 286 (1966).

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