

RADIO OPERATORS ASSOCIATION OF THE PHILIPPINES, PETITIONER, VS. PHILIPPINE MARINE RADIO OFFICERS ASSOCIATION, ET AL., RESPONDENTS.

G. R. No. 10112. November 29, 1957

Ponente: LABRADOR, J.

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LABRADOR, J.:

This case is intimately connected with G. R. Nos. L-10095 and 10115, which cases were decided on October 31, 1957. The facts are fully stated in the said decision, and only those necessary for the understanding of the case at bar will be set forth.

The petitioner in this case appeared as an intervenor in the cases already decided while the same were pending in the Court of Industrial Relations. Petitioners represented its members who had been contracted by the Philippine Steam Navigation Company and other shipping companies to serve as radio operators in their vessels after the Philippine Marine Radio Officers Association (PHILMAROA) had called a strike. Before the strike took place, and more specifically on October 17, 1953, the PHILMAROA filed a notice of intention to strike with the Conciliation Service of the Department of Labor, against the shipping companies affiliated with the Philippine Shipowners' Association and the Asociacion de Navieros. The parties having been called to a conference on November 13, 1953, the parties agreed that the shipping companies be given six days within which to answer the demands of the strikers. However, on November 16, 1953, without waiting for the expiration of the period above granted, the PHILMAROA withdrew its members from the Compania Maritima. On November 19, 1953, the Philippine Steam Navigation Company expressed willingness to bargain with the union, provided the latter had the right to represent its employees. The same day that this answer was received, the PHILMAROA declared a strike against the vessels of the Philippine Steam Navigation. Strikes were also declared on or about November 24 against the others, including Madrigal Shipping Co. The shipping companies promptly hired replacements out of members of the petitioner herein, the Radio Operators Association of the Philippines. When the case was certified to the Court of Industrial Relations by the President of the Philippines, the petitioner in this case was allowed to intervene together with the Republican Federation, which signed an employment contract with Madrigal Shipping Co. on November 29, 1953.

The petitioner in this case seeks the reversal of that order of the Court of Industrial Relations which allows the strikers to go back to their respective positions occupied by them before the strike. As the strike was purely voluntary and as the same was illegal and because there had been no act of unfair labor practices committed by their employers, the members of the petitioner union claim the right to be retained in the employ of their employers.

The immediate reaction of an impartial and unprejudiced mind to the acts of the members of the petitioner union in accepting the positions of the strikers is not entirely favorable to them. They apparently showed disloyalty to the cause of brother laborers. The fact, however, that the positions involved were in a public utility, the services of

which cannot be disrupted or suspended without prejudice to public interest, serves to mitigate their disloyalty to their colleagues.

One question squarely presented before Us is, Does the employment of strike breakers operate to destroy the right or privilege of strikers to go back to work after the settlement of the strike? Another is, Is the Court of Industrial Relations deprived of its jurisdiction, by reason of a voluntary employment of strike breakers by the companies, to order the return of the strikers to their respective positions held by them before the strike?

Our answer to the first question must be qualified. It depends upon the circumstances surrounding the strike, as well as the legality or illegality or the good faith thereof. In the case at bar the strike was resorted to to secure desired improvements in the pay of laborers and in the conditions of their employment.

"It is unquestioned that laborers have the right, through concerted action by means of strike, to attempt to secure the attainment of any of the lawful objects for which they may combine. It is settled that workmen have the right to organize for the purpose of securing improvement in the terms and conditions of labor, and to quit work or to threaten to quit work as a means of compelling or attempting to compel employers to accede to their demands for better terms and conditions. Indeed, the reason for a strike may be based upon any one or more of the multifarious considerations which in good faith may be believed to tend towards the advancement of the employees." (31 Am. Jur. 934.)

That most of the demands were rejected did not make the strike less legitimate, as they do not appear to have been done in bad faith or for an unlawful purpose. (31 Am. Jur. 934-935.)

While it may be true that the strike was premature because the strikers did not wait for the expiration of the six-day period granted the companies to answer the demands of the striking union, the rashness of the strikers may be excused by the fact that their demands had been presented as early as August, 1958, and no answer thereto had been obtained for a period of four months. We have agreed with the court a quo that all that the strikers, have lost by reason of their premature strike was their right to backpay, (see: *The Phil. Marine Radio Officers' Assn. vs. CIR, et al.*, G. R. No. L—10095 and *Compania Maritima, et al. vs. Phil. Marine Radio Officers' Assn. et al.*,[*] G. E. No. L—10115, promulgated October 31, 1957.)

But even without the circumstances, which in this case ' are favorable to the strikers, we cannot agree to the contention of petitioner union that by the mere contract of employment between the employers and the strike breakers during the strike, the right of the strikers to back to their old positions should be deemed lost or waived, especially as in this case the strikers did not offer to go back to their positions. Such a contention, if adopted, would proscribe the strike as a legitimate weapon by which labor may enforce its just demands; it would undermine the just *Radio Operators Assn. of the Phil. vs. Phil. Marine Radio Officers Assn., et al.*

principles, as well as the policy, underlying the law recognizing labor's legitimate rights and weapons. Besides, the rule is to the effect that "while out on strike it is not considered that the strikers have abandoned their employment, but rather have only ceased from their labor." (*Keith Theatre vs. Vachon, et al.*, 187 A. 692,) The declaration of the strike is not a renunciation of the employment relation. (*Rex Taxicab Co. vn. Court of Industrial Relation, et al.*, 40 Off. Gaz. [1.3] . 138.)

The contention of petitioning union is also without legal or moral justification. When a strike breaker accepts the position of a striker, he should know that his employment is merely temporary in nature, subject to the outcome of the strike. Such was our ruling in the case of *National City Bank of New York vs. National City Bank Employees Union*, (98 Phil., 30, 52 Off. Gaz., [2] 799) :

"It needs no argument to show that in the very nature of things the right of the striking employees to be readmitted to their old position was to depend upon the results of the litigation or the finding of the Court of Industrial

Relations on the legality or illegality of the strike. On the other hand, the recruits as well as the Bank should have understood that their employment was temporary in nature, because it was only a provisional remedy calculated to minimize the injurious effects of the strike on the petitioner and its clients as well as on the public. Certainly no permanent, right to the positions temporarily occupied could have been acquired by the recruits, or obligation on the part of the petitioner to retain them therein implied therefrom. The modification thereof by the decision of the court after trial, and in accordance with the results thereof, must be held to be perfectly proper, just and legal."

Our answer to the second question propounded must also be in the negative- The case at bar was certified to the Court of Industrial Relations by the President of the Philippines, by virtue of the provisions of Section 10 of the Industrial Peace Act (Republic Act No. 875). Under the circumstances set forth therein, the Court of Industrial Relations is granted authority to find a solution to an industrial dispute and that solution which the court has found under the above authority and conformably thereto can not be questioned.

The petition is hereby denied and the order subject thereof, affirmed. With costs.

Paras, C. J., Bengzon, Padilla, Bautista Angelo, Concepcion, Endencia and Felix, JJ., concur.

[*] Supra, p. 373.

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