CAINTA CATHOLIC SCHOOL AND MSGR. MARIANO T. BALBAGO, PETITIONERS, VS. CAINTA CATHOLIC SCHOOL EMPLOYEES UNION (CCSEU), RESPONDENT.

G.R. NO. 151021. May 04, 2006

Ponente: TINGA, J.

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TINGA, J.:

The main issue for resolution hinges on the validity of a stipulation in a Collective Bargaining Agreement (CBA) that allows management to retire an employee in its employ for a predetermined lengthy period but who has not yet reached the minimum compulsory retirement age provided in the Labor Code. Jurisprudence has answered the question in the affirmative a number of times and our duty calls for the application of the principle of stare decisis. As a consequence, we grant the petition and reverse the Court of Appeals.

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court, assailing the Decision[1] dated 20 August 2001 of the Court of Appeals in CA-G.R. SP No. 50851, which reversed the Resolutions dated 31 January 1997,[2] and 30 April 1997[3] of the National Labor Relations Commission (NLRC), Third Division in NLRC NCR CC No. L-000028-93 (NLRC RAB-IV-7-6827-94-R), as well as the Resolution[4] dated 6 December 2001.

The antecedent facts follow:

On 6 March 1986, a Collective Bargaining Agreement (CBA) was entered into between Cainta Catholic School (School) and the Cainta Catholic School Employees Union (Union) effective 1 January 1986 to 31 May 1989. This CBA provided, among others, that:

> ARTICLE IX
> DURATION OF AGREEMENT
>
> This Collective Bargaining Agreement shall become effective and binding upon the parties from January 1, 1986 up to May 31, 1989. At least sixty (60) days before the expiration of this Agreement, the parties hereto shall submit written proposals which shall be made the basis of negotiations for the execution of a new agreement.
>
> If no new agreement is reached by the parties at the expiration of this agreement, all the provisions of this Agreement shall remain full force and in effect, up to the time a new Agreement shall be executed.[5]

Msgr. Mariano Balbago (Balbago) was appointed School Director in April 1987. From this time, the Union became inactive.

It was only in 10 September 1993 that the Union held an election of officers, with Mrs. Rosalina Llagas (Llagas) being elected as President; Paz Javier (Javier), Vice-President; Fe Villegas (Villegas), Treasurer; and Maria Luisa Santos (Santos), Secretary. Llagas was then the Dean of the Student Affairs while Villegas and Santos were Year-Level Chairmen. The other elected officers were Rizalina Fernandez, Ester Amigo, secretaries; Nena

Marvilla, treasurer; Gilda Galange and Jimmy del Rosario, auditors; Filomeno Dacanay and Adelina Andres, P.R.O.s; and Danilo Amigo and Arturo Guevarra, business managers.[6]

On 15 October 1993, the School retired Llagas and Javier, who had rendered more than twenty (20) years of continuous service, pursuant to Section 2, Article X of the CBA, to wit:

> An employee may be retired, either upon application by the employee himself or by the decision of the Director of the School, upon reaching the age of sixty (60) or after having rendered at least twenty (20) years of service to the School the last three (3) years of which must be continuous.[7]

Three (3) days later, the Union filed a notice of strike with the National Conciliation and Mediation Board (NCMB) docketed as NCMB-RB-12-NS-10-124-93.

On 8 November 1993, the Union struck and picketed the School's entrances.

On 11 November 1993, then Secretary of Labor Ma. Nieves R. Confesor issued an Order certifying the labor dispute to the National Labor Relations Commission (NLRC). The dispositive portion reads:

> "WHEREFORE, PREMISES CONSIDERED, this Office hereby certifies the labor dispute at the Cainta Catholic School to the National Labor Relations Commission for compulsory arbitration, pursuant to Article 263(g) of the Labor Code as amended."
>
> "Accordingly, all striking teachers and employees are directed to return to work within 24 hours from receipt of this Order and the School Administrator to accept all returning employees under the same terms and conditions prevailing prior to the strike."
>
> "Furthermore, the effects of the termination of Ms. Rosalinda Llagas and Paz A. Javier are hereby suspended. In line with this Order, the School Administration is ordered to reinstate them to their former positions without loss of seniority rights and privileges pending determination of the validity of their dismissal."
>
> "Both parties are further directed to cease and desist from committing any acts that might aggravate the situation."
>
> "SO ORDERED."[8]

On 20 December 1993, the School filed a petition directly with the NLRC to declare the strike illegal.

On 27 July 1994, the Union filed a complaint[9] for unfair labor practice before the NLRC docketed as NLRC Case No. RAB-IV-7-6827-94-R, entitled, "Cainta Catholic School Employees Union v. Cainta Catholic School, et. al.," before Arbitration Branch IV. Upon motion, then Labor Arbiter Oswald Lorenzo ordered the consolidation of this unfair labor practice case with the above-certified case.

On 31 January 1997, the NLRC rendered a Resolution favoring the School.

Three (3) issues were passed upon by the NLRC, namely: (1) whether the retirement of Llagas and Javier is legal; (2) whether the School is guilty of unfair labor practice; and (3) whether the strike is legal.

The NLRC ruled that the retirement of Llagas and Javier is legal as the School was merely exercising an option given to it under the CBA.[10] The NLRC dismissed the unfair labor practice charge against the School for insufficiency of evidence. Furthermore, it was found that the strike declared by the Union from 8 to 12 November 1993 is illegal, thereby declaring all union officers to have lost their employment status.[11]

The Union moved for reconsideration but it was denied in a Resolution dated 30 April 1997.

Hence, on 9 July 1997, the Union filed a petition for certiorari before this Court docketed as G.R. No. 129548.

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The Court issued a temporary restraining order (TRO) against the enforcement of the subject resolutions effective as of 23 July 1997. The School, however, filed a motion for clarification considering that it had already enforced the 31 January 1997 NLRC Resolution.

On 28 July 1997, ten (10) regular teachers, who were declared to have lost their employment status under the aforesaid NLRC Resolution reported back to work but the School refused to accept them by reason of its pending motion for clarification. This prompted the Union to file a petition for contempt against Balbago and his agents before this Court, docketed as G.R. No. 130004, which was later on consolidated with G.R. No. 129548.

Pursuant to the ruling of this Court in St. Martin Funeral Homes v. NLRC,[12] the case was referred to the Court of Appeals and re-docketed as CA-G.R. SP No. 50851.

On 20 August 2001, the Court of Appeals rendered a decision giving due course and granting the petition to annul and set aside the 31 January 1997 and 30 April 1997 Resolutions of the NLRC; while dismissing the petition for contempt for lack of merit. The decretal portion of the decision reads:

> WHEREFORE, premises considered, the petition to annul and set aside the 31 January 1997 and the 30 April 1997 resolutions of the National Labor Relations Commission is GRANTED. Judgment is hereby RENDERED directing private respondents: 1) to REINSTATE the terminated union officers, except Rosalinda Llagas, Paz Javier, Gilda Galange and Ester Amigo, to their former positions without loss of seniority rights and other privileges with full backwages, inclusive of allowances and other benefits or their monetary equivalent from 9 June 1997 up to the time of their actual reinstatement; 2) to pay Rosalinda Llagas: a) separation pay equivalent to one (1) month pay for every year of service, in lieu of reinstatement, with full backwages, inclusive of allowances and other benefits or their monetary equivalent from 9 June 1997 up to the time of the finality of this decision; b) moral and exemplary damages in the amount of ten thousand pesos (P10,000.00) and five thousand (P5,000.00), respectively; 3) to pay Paz Javier, or her heirs: a) unpaid salaries, inclusive of allowances and other benefits, including death benefits, or their monetary equivalent from the time her compensation was withheld from her up to the time of her death; b) separation pay equivalent to one (1) month's salary for every year of service; and c) moral and exemplary damages in the amount of ten thousand pesos (P10,000.00) and five thousand pesos (P5,000.00), respectively.
>
> Private respondents are also ordered to pay petitioner union attorney's fees equivalent to five percent (5%) of the total judgment award.
>
> The petition for contempt, however, is DISMISSED for lack of merit.
>
> No pronouncement as to costs.
>
> SO ORDERED.[13]

In reversing the decision of the NLRC, the Court of Appeals construed the retirement of Llagas and Javier as an act amounting to unfair labor practice when viewed against the backdrop of the relevant circumstances obtaining in the case. The appellate court pointed out, thus:

> The two happened to be the most vocal, dynamic and influential of all union officers and members and they held considerable suasion over the other employees. Rosalinda Llagas objected to the signing of the prepared form distributed by the school, as a consequence of which, no one accomplished the form, and opposed the formation of the high school faculty club as the teachers already had sufficient representation through the union. Paz Javier, on the other hand, demanded that she be given the floor during the faculty club organizational meeting and went on to win the presidency of the faculty club, conclusively showing that she enjoyed the support of the high school teachers. They were therefore a new and different breed of union leaders - assertive, militant and independent - the exact opposite of former union president Victor Javier who seemed to be passive, cooperative and pacific. The school saw the two as threats which it could not control,

> and faced with a very uncomfortable situation of having to contend with an aggressive union which just dominated the high school faculty club (except for Joel Javeniar, all of the faculty club's officers were union members; Rollo, p. 418), the school decided to "nip in the bud" the reactivated union by retiring its most prominent leaders.
>
> x x x x
>
> It is not difficult to see the anti-union bias of the school. One of the first acts of private respondent Msgr. Balbago immediately after his assumption of office as school director was to ask for a moratorium on all union activities. With the union in inactive status, the school felt secure and comfortable but when the union reactivated, the school became apprehensive and reacted by retiring the union's two topmost officers by invoking the provisions of the CBA. When the union furnished the school, through counsel, a copy of a proposed CBA on 3 November 1993, the school in a cavalier fashion ignored it on the pretext that the union no longer enjoyed the majority status among the employees x x x[14]

The appellate court concluded that the retirement of the two (2) union officers was clearly to bust the reactivated union.

Having established that the School committed unfair labor practice, the Court of Appeals declared that the "no-strike, no-lockout clause" in the CBA was not violated when the union members staged a strike from 8 to 12 November 1993.[15] It further held that minor disorders or isolated incidents of perceived coercion attending the strike do not categorize it as illegal:

> We studied carefully the available records and found that the existence of force during the strike was certainly not pervasive and widespread, or consistently and deliberately resorted to as a matter of policy, so as to stamp the strike with illegality, or to cause the loss of employment of the guilty party x x x [16]

The motion for reconsideration subsequently filed by the School was denied in a Resolution dated 6 December 2001, save in case of some union officers where the appellate court modified its ruling granting them separation pay instead of reinstatement because of their retirement or death.[17]

Thereafter, petitioners filed this petition for review on certiorari raising three main issues, summarized as: (1) whether the School's decision to retire Llagas and Javier constitutes unfair labor practice; (2) whether the strike was legal; and (3) whether some union officers ordered dismissed are entitled to backwages.[18]

The School avers that the retirement of Llagas and Javier was clearly in accordance with a specific right granted under the CBA. The School justifies its actions by invoking our rulings in Pantranco North Express, Inc. v. NLRC[19] and Bulletin Publishing Corporation v. Sanchez[20] that no unfair labor practice is committed by management if the retirement was made in accord with management prerogative or in case of voluntary retirement, upon approval of management.

The Union, relying on the findings made by the Court of Appeals,[21] argues that the retirement of the two union officers is a mere subterfuge to bust the union.[22]

The NLRC, however, gave another justification to sustain the validity of the two union officers' forcible retirement, viz:

> The retirement of Rosalinda Llagas has become inevitable because, being a managerial employee by reason of her position as Dean of Student Affairs, she accepted the Union presidency. She lost the trust and confidence on her by the SCHOOL as she occupied a managerial position as Dean of Student Affairs. . . Being also the union president, she has allowed her loyalties to be divided between the administration and the union.
>
> As to Paz Javier, her retirement was decided upon after an evaluation shows that she was not performing well

> as her students were complaining about her brusque attitude and bad language, aside from being habitually absent and late. [23]

At the outset, only questions of law are entertained by this Court through a petition for review on certiorari. There are, however, well-recognized exceptions such as in this case when the factual findings of the NLRC and the Court of Appeals are contradictory.[24] A re-evaluation of the records of this case is necessary for its proper resolution.

The key issue remains whether the forced retirement of Llagas and Javier was a valid exercise of management prerogative. Undoubtedly, the retirement of the two (2) union officers triggered the declaration of strike by the Union, and the ruling on whether the strike was legal is highly dependent on whether the retirement was valid.

We are impelled to reverse the Court of Appeals and affirm the validity of the termination of employment of Llagas and Javier, arising as it did from a management prerogative granted by the mutually-negotiated CBA between the School and the Union.

Pursuant to the existing CBA,[25] the School has the option to retire an employee upon reaching the age limit of sixty (60) or after having rendered at least twenty (20) years of service to the School, the last three (3) years of which must be continuous. Retirement is a different specie of termination of employment from dismissal for just or authorized causes under Articles 282 and 283 of the Labor Code. While in all three cases, the employee to be terminated may be unwilling to part from service, there are eminently higher standards to be met by the employer validly exercising the prerogative to dismiss for just or authorized causes. In those two instances, it is indispensable that the employer establish the existence of just or authorized causes for dismissal as spelled out in the Labor Code. Retirement, on the other hand, is the result of a bilateral act of the parties, a voluntary agreement between the employer and the employee whereby the latter after reaching a certain age agrees and/or consents to sever his employment with the former.[26]

Article 287 of the Labor Code, as amended, governs retirement of employees, stating:

> ART. 287. Retirement. -
>
> Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.
>
> In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining agreement and other agreements: Provided, however, That an employee's retirement benefits under any collective bargaining agreement and other agreements shall not be less than those provided herein.
>
> In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

The CBA in the case at bar established 60 as the compulsory retirement age. However, it is not alleged that either Javier or Llagas had reached the compulsory retirement age of 60 years, but instead that they had rendered at least 20 years of service in the School, the last three (3) years continuous. Clearly, the CBA provision allows the employee to be retired by the School even before reaching the age of 60, provided that he/she had rendered 20 years of service. Would such a stipulation be valid? Jurisprudence affirms the position of the School.

Pantranco North Express, Inc. v. NLRC, cited by petitioners, finds direct application in this case. The CBA

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involved in Pantranco allowed the employee to be compulsorily retired upon reaching the age of 60 "or upon completing [25] years of service to [Pantranco]." On the basis of the CBA, private respondent was compulsorily retired by Pantranco at the age of 52, after 25 years of service. Interpreting Article 287, the Court ruled that the Labor Code permitted employers and employees to fix the applicable retirement age at below 60 years of age. Moreover, the Court also held that there was no illegal dismissal since it was the CBA itself that incorporated the agreement reached between the employer and the bargaining agent with respect to the terms and conditions of employment; hence, when the private respondent ratified the CBA with his union, he concurrently agreed to conform to and abide by its provisions. Thus, the Court asserted, "[p]roviding in a CBA for compulsory retirement of employees after twenty-five (25) years of service is legal and enforceable so long as the parties agree to be governed by such CBA."[27]

A similar set of facts informed our decision in Progressive Development Corporation v. NLRC.[28] The CBA therein stipulated that an employee "with [20] years of service, regardless of age, may be retired at his option or at the option of the company." The stipulation was used by management to compulsorily retire two employees with more than 20 years of service, at the ages of 45 and 38. The Court affirmed the validity of the stipulation on retirement as consistent with Article 287 of the Labor Code.

Philippine Airlines, Inc. v. Airline Pilots Association of the Phils.[29] further bolsters the School's position. At contention therein was a provision of the PAL-ALPAP Retirement Plan, the Plan having subsequently been misquoted in the CBA mutually negotiated by the parties. The Plan authorized PAL to exercise the option of retirement over pilots who had chosen not to retire after completing 20 years of service or logging over 20,000 hours for PAL. After PAL exercised such option over a pilot, ALPAP charged PAL with illegal dismissal and union-busting. While the Secretary of Labor upheld the unilateral retirement, it nonetheless ruled that PAL should first consult with the pilot to be retired before it could exercise such option. The Court struck down that proviso, ruling that "the requirement to consult the pilots prior to their retirement defeats the exercise by management of its option to retire the said employees, [giving] the pilot concerned an undue prerogative to assail the decision of management."

By their acceptance of the CBA, the Union and its members are obliged to abide by the commitments and limitations they had agreed to cede to management. The questioned retirement provisions cannot be deemed as an imposition foisted on the Union, which very well had the right to have refused to agree to allowing management to retire retire employees with at least 20 years of service.

It should not be taken to mean that retirement provisions agreed upon in the CBA are absolutely beyond the ambit of judicial review and nullification. A CBA, as a labor contract, is not merely contractual in nature but impressed with public interest. If the retirement provisions in the CBA run contrary to law, public morals, or public policy, such provisions may very well be voided. Certainly, a CBA provision or employment contract that would allow management to subvert security of tenure and allow it to unilaterally "retire" employees after one month of service cannot be upheld. Neither will the Court sustain a retirement clause that entitles the retiring employee to benefits less than what is guaranteed under Article 287 of the Labor Code, pursuant to the provision's express proviso thereto in the provision.

Yet the CBA in the case at bar contains no such infirmities which must be stricken down. There is no essential difference between the CBA provision in this case and those we affirmed in Pantranco and Progressive. Twenty years is a more than ideal length of service an employee can render to one employer. Under ordinary contemplation, a CBA provision entitling an employee to retire after 20 years of service and accordingly collect retirement benefits is "reward for services rendered since it enables an employee to reap the fruits of his labor - particularly retirement benefits, whether lump-sum or otherwise - at an earlier age, when said employee, in

presumably better physical and mental condition, can enjoy them better and longer."[30]

We affirm the continued validity of Pantranco and its kindred cases, and thus reiterate that under Article 287 of the Labor Code, a CBA may validly accord management the prerogative to optionally retire an employee under the terms and conditions mutually agreed upon by management and the bargaining union, even if such agreement allows for retirement at an age lower than the optional retirement age or the compulsory retirement age. The Court of Appeals gravely erred in refusing to consider this case from the perspective of Pantranco, or from the settled doctrine enunciated therein.

What the Court of Appeals did instead was to favorably consider the claim of the Union that the real purpose behind the retirement of Llagas and Javier was to "bust" the union, they being its president and vice-president, respectively. To that end, the appellate court favorably adopted the citation by the Union of the American case of NLRB v. Ace Comb, Co.,[31] which in turn was taken from a popular local labor law textbook. The citation stated that "[f]or the purpose of determining whether or not a discharge is discriminatory, it is necessary that the underlying reason for the discharge be established. The fact that a lawful cause for discharge is available is not a defense where the employee is actually discharged because of his union activities."[32]

Reliance on NLRB v. Ace Comb, Co. was grossly inapropos. The case did not involve an employee sought to be retired, but one who cited for termination from employment for cause, particularly for violating Section 8(a)(3) of the National Labor Relations Act, or for insubordination. Moreover, the United States Court of Appeals Eighth Circuit, which decided the case, ultimately concluded that "here the evidence abounds that there was a justifiable cause for [the employee's] discharge,"[33] his union activities notwithstanding. Certainly, the Union and the Court of Appeals would have been better off citing a case wherein the decision actually concluded that the employee was invalidly dismissed for union activities despite the ostensible existence of a valid cause for termination.

Nonetheless, the premise warrants considering whether management may be precluded from retiring an employee whom it is entitled to retire upon a determination that the true cause for compulsory retirement is the employee's union activities.

The law and this Court frowns upon unfair labor practices by management, including so-called union-busting. Such illegal practices will not be sustained by the Court, even if guised under ostensibly legal premises. But with respect to an active unionized employee who claims having lost his/her job for union activities, there are different considerations presented if the termination is justified under just or authorized cause under the Labor Code; and if separation from service is effected through the exercise of a duly accorded management prerogative to retire an employee. There is perhaps a greater imperative to recognize the management prerogative on retirement than the prerogative to dismiss employees for just or authorized causes. For one, there is a greater subjectivity, not to mention factual dispute, attached to the concepts of just or authorized cause than retirement which normally contemplates merely the attainment of a certain age or a certain number of years in the service. It would be easier for management desirous to eliminate pesky union members to abuse the prerogative of termination for such purpose since the determination of just or authorized cause is rarely a simplistic question, but involves facts highly prone to dispute and subjective interpretation.

On the other hand, the exercise by management of its retirement prerogative is less susceptible to dubitability as to the question whether an employee could be validly retired. The only factual matter to consider then is whether the employee concerned had attained the requisite age or number of years in service pursuant to the CBA or employment agreement, or if none, pursuant to Article 287 of the Labor Code. In fact, the question of the amount of retirement benefits is more likely to be questioned than the retirement itself. Evidently, it more clearly emerges in the case of retirement that management would anyway have the right to retire an employee, no matter the

degree of involvement of said employee in union activities.

There is another point that militates against the Union. A ruling in its favor is tantamount to a concession that a validly drawn management prerogative to retire its employees can be judicially interfered on a showing that the employee in question is highly valuable to the union. Such a rule would be a source of mischief, even if narrowly carved out by the Court, for it would imply that an active union member or officer may be, by reason of his/her importance to the union, somehow exempted from the normal standards of retirement applicable to the other, perhaps less vital members of the union. Indeed, our law's protection of the right to organize labor does not translate into perpetual job security for union leaders by reason of their leadership role alone. Should we entertain such a notion, the detriment is ultimately to the union itself, promoting as it would a stagnating entrenched leadership.

We can thus can comfortably uphold the principle, as reiterated in Philippine Airlines,[34] that the exercise by the employer of a valid and duly established prerogative to retire an employee does not constitute unfair labor practice.

There are other arguments raised by petitioners. We need to discuss them only in brief, as they are no longer central to the resolution of this case.

The School insisted that Llagas and Javier were actually managerial employees, and it was illegal for the Union to have called a strike on behalf of two employees who were not legally qualified to be members of the Union in the first place.[35] The Union, on the other hand, maintains that they are rank-and-file employees.

Article 212(m) of the Labor Code defines a managerial employee as "one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees, or to effectively recommend such managerial actions." The functions of the Dean of Student Affairs, as occupied by Llagas, are enumerated in the Faculty Manual. The salient portions are hereby enumerated:

> a. Manages the High School Department with the Registrar and Guidance Counselors (acting as a COLLEGIAL BODY) in the absence of the Director or Principal.
>
> b. Enforces the school rules and regulations governing students to maintain discipline.
>
> x x x x
>
> g. Plans with the Guidance Counselors student leadership training programs to encourage dynamic and responsible leadership among the students and submits the same for the approval of the Principal/Director.
>
> x x x x
>
> i. Studies proposals on extra-curricular or co-curricular activities and projects proposed by teachers and students and recommends to the Principal/Director the necessary approval.
>
> j. Implements and supervises activities and projects approved by the Principal/Director so that the activities and projects follow faithfully the conditions set forth by the Principal/Director in the approval.
>
> k. Assists in the planning, supervising and evaluating of programs of co-curricular activities in line with the philosophy and objectives of the School for the total development of the students.
>
> l. Recommends to the Principal policies and rules to serve as guides to effective implementation of the student activity program.[36]
>
> x x x x

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It is fairly obvious from a perusal of the list that the Dean of Student Affairs exercises managerial functions, thereby classifying Llagas as a managerial employee.

Javier was occupying the position of Subject Area Coordinator. Her duties and responsibilities include:

> - Recommends to the principal's consideration the appointment of faculty members in the department, their promotion, discipline and even termination;
>
> - Recommends advisory responsibilities of faculty members;
>
> - Recommends to the principal curricular changes, purchase the books and periodicals, supplies and equipment for the growth of the school;
>
> - Recommends his/her colleagues and serves as channel between teachers in the department the principal and/or director.[37]

Supervisory employees, as defined in Article 212(m) are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment.

In the same vein, a reading of the above functions leads us to conclude that Javier was a supervisory employee. Verily, Javier made recommendations as to what actions to take in hiring, termination, disciplinary actions, and management policies, among others.

We can concede, as the Court of Appeals noted, that such job descriptions or appellations are meaningless should it be established that the actual duties performed by the employees concerned are neither managerial nor supervisory in nature. Yet on this point, we defer to the factual finding of the NLRC, the proximate trier of facts, that Llagas and Javier were indeed managerial and supervisory employees, respectively.

Having established that Llagas is a managerial employee, she is proscribed from joining a labor union,[38] more so being elected as union officer. In the case of Javier, a supervisory employee, she may join a labor union composed only of supervisory employees.[39] Finding both union officers to be employees not belonging to the rank-and-file, their membership in the Union has become questionable, rendering the Union inutile to represent their cause.

Since the strike has been declared as illegal based on the foregoing discussion, we need not dwell on its legality with respect to the means employed by the Union.

Finally, there is neither legal nor factual justification in awarding backwages to some union officers who have lost their employment status, in light of our finding that the strike is illegal. The ruling of the NLRC is thus upheld on this point. We are also satisfied with the disposition of the NLRC that mandates that Llagas and Javier (or her heirs) receive their retirement benefits.

WHEREFORE, the petition is GRANTED. The Resolution dated 31 January 1997 of the National Labor Relations Commission in NLRC NCR CC No. L-000028-93 is REINSTATED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Velasco, Jr., JJ., concur.

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[1]Rollo, pp. 71-93; penned by Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Cancio C. Garcia (now Supreme Court Associate Justice) and Hilarion L. Aquino.

[2]Id. at 192-234; penned by Commissioner Ireneo B. Bernardo and concurred in by Presiding Commissioner Lourdes C. Javier. Commissioner Joaquin A. Tanodra took no part.

[3] Id. at 235-236.

[4] Id. at 152-159.

[5] See p. 9, Petitioner's Annex "D" to the petition.

[6] Id. at 14.

[7] Rollo, p. 172.

[8] Id. at 192-193.

[9]Id. at 166-170.

[10] Id. at 197-198.

[11] Id. at 233-234.

[12] G.R. No. 130866, 16 September 1998, 295 SCRA 494.

[13] Rollo, pp. 91-92.

[14] Id. at 81-82.

[15]Id. at 84.

[16]Id. at 86.

[17]Id. at 157.

[18]Id. at 20-22.

[19] G.R. No. 95940, 24 July 1996, 259 SCRA 161.

[20]No. L-74425, 7 October 1986, 144 SCRA 628.

[21] Supra note 14.

[22] Rollo, p. 677.

[23] Id. at 217-218.

[24] Abante, Jr. v. Lamadrid Bearing & Parts Corp., G.R. No. 159890, 28 May 2004, 430 SCRA 368, 378-379; Tiu v. Pasaol, Jr., G.R. No. 139876, 30 April 2003, 402 SCRA 312, 318.

[25] Rollo, pp. 161-165.

[26] Pantranco North Express, Inc. v. NLRC, supra note 19 at 170.

[27] Id., at 173.

[28] G.R. No. 138826, 30 October 2000, 344 SCRA 512.

[29] G.R. No. 143686, 15 January 2002, 373 SCRA 302.

[30] Pantranco North Express, Inc. v. NLRC, supra note 19 at 171.

[31] Cited as 342 F. 2 841. See rollo, p. 78.

[32] Rollo, p. 78.

[33] 342 F.2d 841.

[34] Supra note 23, at 309, citing Bulletin Publishing Corp. v. Sanchez, No. L-74425, October 7, 1986, 144 SCRA 628, 640-641.

[35] Rollo, p. 26.

[36] Id. at 734-735.

[37] Id. at 26.

[38] Tropical Hut Employees' Union-CGW v. Tropical Hut Food Market, Inc., G.R. Nos. 43495-99, January 20, 1990, 181 SCRA 173, 189.

[39] Labor Code, Art. 245.

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