

NS TRANSPORT EMPLOYEES ASSOCIATION (NSTEA), RENE QUINTAS, DANNY PAJARILLO, FERNANDO ALDAY, JR., ZEGER TADLE, PETER BANLOTA, VICENTE ALMAZAN, FERNANDO ALDAY, SR., ANTHONY BAJAO, ...

G.R. NO. 164049. October 30, 2006

Ponente: TINGA, J.

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TINGA, J.:

This treats of the petition for review filed by the NS Transport Employees Association (Union) and the individual petitioners assailing the Decision of the Court of Appeals in CA-G.R. SP No. 75155 promulgated on 30 July 2003,[1] which found grave abuse of discretion on the part of the National Labor Relations Commission (NLRC).

The facts, as found by the Court of Appeals, follow.

In April of 1997, the union filed a petition for certification election for the rank and file employees of NS Transport Services, Inc. (the company), a public utility transport corporation.[2] The petition was denied by the Department of Labor and Employment (DOLE), prompting the union to appeal the denial to the DOLE Secretary.

On 20 May 1997, the Union filed a Notice of Strike before the National Conciliation and Mediation Board (NCMB), alleging illegal dismissal of its officers and members, as well as discrimination and coercion of employees. However, despite the mediation conducted by the NCMB, the parties failed to amicably settle their differences, thus the Union pushed through with its strike.[3]

The DOLE Secretary, upon the company's petition,[4] assumed jurisdiction over the dispute and issued a Return-to-Work Order and certified the dispute to the NLRC for compulsory arbitration. Likewise, upon motion of the company, the DOLE Secretary deputized police authorities to assist in the peaceful and orderly enforcement of the DOLE's orders.[5]

Thereafter, the company filed a complaint for declaration of illegality of strike and damages before the NLRC, alleging that while mediation was in progress, the Union staged a strike, and that during the strike, the Union members resorted to threats, intimidation and coercion upon their co-employees. They also allegedly blocked the ingress and egress of the company and caused damage to company property. On the other hand, the Union sought to hold the company for contempt for allegedly refusing to accept its returning members. The cases were then consolidated by the NLRC.[6]

Conciliation conferences were conducted, but the parties still failed to settle the disputes, prompting the labor arbiter to require the parties to submit their respective position papers. The Union claimed that the company committed unfair labor practice when it dismissed several union officers and members because of union activities, and that it resorted to selective acceptance of striking employees. On the other hand, the company averred that even while mediation was on-going, the Union filed a notice of strike to pressure the company to recognize it as the bargaining representative of its employees. Likewise, the company alleged that the Union committed

prohibited acts during its strike, such as property destruction, violence and coercion. The company denied that it refused to accept the employees who returned in compliance with the Return-to-Work Order, claiming that it even caused the publication of the Order and issued individual return-to-work directives to each striking employee.[7]

The parties agreed to the conduct of a formal hearing. The Union was first to present evidence.[8]

Meanwhile, the DOLE Secretary reversed the order of the Med-Arbitrator denying the Union's petition for Certification Election.[9]

During the proceedings before the NLRC, the Union filed a motion submitting the case for decision on account of the company's apparent failure to appear in the 14, 21 and 28 June 2001 hearings. The company filed its opposition to the said motion on the ground that they were not notified of the said settings and prayed that the case be set for further hearings. The opposition and plea to adduce evidence notwithstanding, the NLRC stated:

In this trial, NSTEA was able to present all their witnesses for examination.

In the case of NSTS, however, they miserably failed to appear and present their witnesses for examination despite having been repeatedly notified to do so.

Due to this persisting [sic] failure, NSTEA filed its Motion Submitting Case for Decision dated 6 July 2001, seeking resolution of the instant case based solely on its adduced evidence on record. However, in the interest of justice, we decided to consider the instant case submitted for resolution based on all the available records submitted on account of such obtaining failure.[10]

The NLRC held that the strike staged by the Union was legal and ordered the reinstatement of the individual complainants with full backwages.[11]

The company sought reconsideration of the resolution, claiming that it was denied due process when they were not allowed to adduce evidence on the illegality of the strike and the violation of the Return-to-Work Order. The NLRC dismissed the motion without resolving the company's protest on the lack of notice of the hearings.[12]

In a petition under Rule 65 before the Court of Appeals, the company claimed grave abuse of discretion on the part of the NLRC when it issued its questioned resolution despite lack of notice to the company and without providing it the opportunity to present its witnesses and evidence.[13]

The Court of Appeals ruled in favor of the company and remanded the case to the NLRC for further proceedings. It found that counsel for the company changed his address while the cases were pending before the NLRC, and that the NLRC was in fact cognizant of such change of address since it had previously sent notices of hearings to the new address for almost three (3) years while the case was on-going. In fact, the Union even served a copy of its motion submitting the case for decision on the same address. The company's opposition to the said motion even called the NLRC's attention to its counsel's new address, the Court of Appeals noted. The appellate court observed that the NLRC and petitioners were unable to show that notices for the 14, 21 and 28 June 2001 hearings were duly received by said counsel.[14]

According to the Court of Appeals, the NLRC failed to verify from the service return card on record whether the notice for the three (3) hearings were duly served on the company's counsel. The NLRC also failed to state such fact in its questioned resolutions to forestall complaints of denial of due process. Moreover, there is no indication that the NLRC looked into and resolved the company's opposition to the Union's motion to submit the case for decision and to set the case for further hearing before rendering the questioned resolutions. The Court of Appeals also noted that the NLRC and the Union failed to dispute the company's averment that notices of hearings were not received by the company or its counsel.[15]

The Court of Appeals pointed out that failure to appear and present evidence on the scheduled hearings should not be solely imputed to the company since the Union also failed to appear in several hearings. Further, it held that the company's complaint for illegal strike and its defense against the Union's complaints of unfair labor practice raised substantial issues which cannot be resolved based on the Union's averments alone, but deserve a hearing wherein both parties can present their sides.[16]

The Union sought reconsideration of the Decision but it was denied by the Court of Appeals.[17]

Petitioners now claim that the NLRC did not violate the company's right to due process since its resolutions were based on the parties' respective pleadings and on the records of the case. In any case, the company was given the opportunity to cross-examine the petitioners' witnesses but it failed to attend the hearings and similarly failed to appear in the hearings intended for the reception of its evidence.[18] According to petitioners, the order of remand by the Court of Appeals violates the worker's right to speedy and inexpensive disposition of cases, considering that the appellate court was in a position to resolve the case on its merits.[19] Petitioners reiterate their position that the company did not have any just cause for dismissing the concerned employees, and that their strike was legal and based on respondent's unfair labor practices.[20]

For their part, respondents[21] maintain that the company was deprived of its constitutional right to due process when the NLRC disallowed it to present its evidence due to the conceived "failure to attend" the three (3) scheduled hearings, when in fact the company and its counsel were not notified of the hearings since the NLRC sent the notice of said hearings to a wrong address.[22] Respondents claim that the order of remand for further reception of evidence is not violative of petitioners' right to speedy and inexpensive disposition of cases. Furthermore, the Court of Appeals not being a trier of facts, reception of evidence should be made by the NLRC itself. Besides, petitioners cannot now claim violation of the right to speedy disposition of cases since they contributed to the delay in the resolution of the case.[23]

Respondents point out that petitioners misled the NLRC in their motion submitting the case for resolution when they alleged that the company failed to attend the scheduled hearings despite due notice, when in fact the notice was sent to the wrong address.[24] They aver that the NLRC has not been consistent in dealing with the absences of the parties since it was considerate and lenient to petitioners but hard and strict against the company.[25]

The petition must be denied.

It is well-settled that the essence of due process in administrative proceedings is the opportunity to explain one's side or a chance to seek reconsideration of the action or ruling complained of.[26] In labor cases, it has been held that due process is simply an opportunity to be heard and not that an actual hearing should always and indispensably be held[27] since a formal type or trial-type hearing is not at all times and in all instances essential to due process the requirements of which are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of controversy.[28]

The holding of an adversarial trial is discretionary on the labor arbiter and the parties cannot demand it as a matter of right.[29] Section 4, Rule V[30] of the New Rules of Procedure of the NLRC[31] grants a labor arbiter wide latitude to determine, after the submission by the parties of their position papers/memoranda, whether there is need for a formal trial or hearing.

Indeed, a formal hearing is not necessary in labor cases. However, when such a formal hearing is allowed but a party is not informed thereof, as a consequence of which he is unable to attend the same, such failure to attend should not be taken against him. As the labor arbiter allowed the holding of a formal hearing, he must accord the parties the opportunity to participate therein and allow the formal hearing to proceed its natural course, if due

process and the elements of fair play are to be observed.

In the instant case, the labor arbiter has granted his imprimatur on the holding of a formal hearing, as agreed upon by the parties.[32] In fact, the hearing has commenced and petitioners were given the opportunity to present their side. However, the company was not given the chance to exercise the same privilege, since the case was submitted for decision even before it was able to adduce its evidence during the formal hearing. Worse, the labor arbiter did not even deign to address the issues posed by the company in its opposition to submit the case for resolution, particularly the claim that it was not notified of the 14, 21, and 28 June 2001 hearings. While the labor arbiter has the discretion to conduct a formal hearing, such discretion does not permit him to arbitrarily allow and/or prevent a party from presenting its case once the formal hearing has commenced.

The company's failure to appear in the 14, 21, and 28 June 2001 hearings are not the only instances when it did not attend the proceedings before the NLRC. Indeed, the records are replete with constancias showing and noting such absences. However, the company is not the only one guilty of absences. As observed by the Court of Appeals, petitioners equally contributed to the delay in the resolution of the consolidated cases. It is totally unfair to blame only the company for the delay in the resolution of the cases when such delay was the result of both parties' failure to attend the scheduled hearings. If the NLRC is disposed to be strict in the enforcement of its rules of procedure, it must do so fairly and reasonably, not consistently against one party only.

The law, in protecting the rights of the employee, authorizes neither oppression nor self-destruction of the employer.[33] Contrary to petitioners' claim, remand of the case to the NLRC is proper since the company has yet to present its evidence during the formal hearing. It is true that both parties have been provided the opportunity to prove their cases through the pleadings submitted before the NLRC; however, only petitioners were given the chance to present its side in the formal hearing. The factual issues raised in the consolidated cases could still be affected by the additional evidence to be presented by the company. Equity demands that the company must be equally allowed to adduce its evidence, if the NLRC is to come up with a rational and impartial decision.

Besides, while the speedy and inexpensive disposition of cases is much desired and should be pursued, the swift resolution of labor disputes is counterproductive if it is achieved through a lop-sided hearing and at the expense of the employer's rights. Thus, it has been held that while labor laws mandate the speedy disposition of cases with the least attention to technicalities, the fundamental requisites of due process must not be sacrificed.[34]

Until both parties are able to adduce their respective evidence in a formal hearing, no resolution of the issues concerning the legality of the Union's strike or the allegations of unfair labor practices can be safely arrived at. The resulting delay, if any, in the disposition of the cases a quo due to the remand to the NLRC is regrettable to say the least.

The NLRC and the parties are urged to proceed with the formal hearing and conclude with dispatch.

There is nothing in this decision that should be construed as would render ineffective the discretionary power of the labor arbiter to conduct adversarial trial. All that this decision seeks to impart is the recognition that even in administrative proceedings, the basic tenets of due process and fair play must be respected and upheld.

WHEREFORE, the petition is DENIED and the Decision dated 30 July 2003 of the Court of Appeals in CA-G.R. Sp No. 75155 is AFFIRMED. Costs against petitioners.

SO ORDERED.

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

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- [1] Rollo, pp. 42-56, penned by Associate Justice Bienvenido L. Reyes, with Associate Justices Salvador J. Valdez, Jr. and Danilo B. Pine, concurring.
- [2] Records, pp. 77-83.
- [3] Rollo, p. 43.
- [4] Ex-Parte Petition for Assumption of Jurisdiction filed by NS Transport Services, Inc. on 16 July 1997, docketed as NCMB-NCR-NS-05-216-97.
- [5] Rollo, pp. 43-44.
- [6] Id. at 44.
- [7] Id. at 44-46.
- [8] Id. at 46.
- [9] Id.
- [10] NLRC Resolution dated 28 January 2002, rollo, pp. 63-64.
- [11] Id. at 61-81.
- [12] Rollo, pp. 46-47.
- [13] Records, pp. 2-43.
- [14] Rollo, pp. 48-49.
- [15] Id. at 52-54.
- [16] Id. at 54.
- [17] Resolution dated 15 June 2004, rollo, pp. 57-59.
- [18] Rollo, pp. 35-37
- [19] Id. at 21-22.
- [20] Id. at 31-34.
- [21] Individual respondents Nicanor Soriano, Jaime Mendoza and Teresita Mendoza are the President, Vice-President and Vice-President for Administration of the company.
- [22] Rollo, p. 106.
- [23] Id. at 110.
- [24] Id. at 112.
- [25] Id.
- [26] *Arboleda v. National Labor Relations Commission*, G.R. No. 119509, 11 February 1999, 303 SCRA 38, 45.
- [27] *Conti v. National Labor Relations Commission*, G.R. No. 119253, 10 April 1997, 271 SCRA 114, 118.
- [28] *Taberrah v. National Labor Relations Commission*, G. R. No. 117742, 29 July 1997, 276 SCRA 431, 438.

[29] *Vinta Maritime Co., Inc. v. National Labor Relations Commission*, G.R. No. 113911, 23 January 1998, 284 SCRA 656, 665.

[30] Section 4. Determination of Necessity of Hearing. - Immediately after the submission by the parties of their position papers/memorandum, the Labor Arbiter shall *motu proprio* determine whether there is need for a formal trial or hearing. At this stage, he may, at his discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

[31] Now Section 8, Rule V of the 2005 Revised Rules of Procedure of the NLRC.

[32] It appears while the parties agreed to the conduct of trial, petitioners refused to hold joint hearings of the consolidated cases, and instead insisted that one case be heard after another, i.e., ULP case filed by petitioners, followed by the complaint of illegal strike by respondent. Records, p. 223.

[33] *Etcuban, Jr. v. Sulpicio Lines, Inc.*, G.R. No. 148410, 17 January 2005, 448 SCRA 516, 533.

[34] *Verceles v. Bureau of Labor Relations-Department of Labor and Employment-National Capital Region*, G.R. No. 152322, 15 February 2005, 451 SCRA 338, 349.

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