

LUZON STEVEDORING CO., INC., SANTA MESA SLIPWAY AND ENGINEERING CO., AND PATRICK J. MACFADDEN, PETITIONERS, VS. COURT OF INDUSTRIAL RELATIONS, BROTHERHOOD OF SHIPBUILDERS, MARI...

G.R. No. 16682. July 26, 1963

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from the decision of the Court of Industrial Relations, dated November 28, 1959, finding petitioners guilty of unfair labor practice and the resolution dated January 27, 1960 of the same Court, dismissing petitioners' motion for reconsideration.

Briefly, the facts, as found by the Court of Industrial Relations, are as follows:

"The Sta. Mesa Slipway and Engineering Company, the principal respondent herein is a department of the Luzon Stevedoring Company Incorporated, and is doing business, among others, of hauling and pumping of bulk oil in the City of Manila. The complainant union, on the other hand, is admittedly a legitimate labor organization and one of its founder is complainant Despabiladeras, a mechanic. He used to be assigned in the company operations in Lubiran, Sta. Mesa, as diesel mechanic having been employed since 1946 as a mere operator with a salary of P6.90 a day. On April 30, 1930. Despabiladeras was transferred to the Pandacan Terminal, specifically in the Bulk Oil Section, where his work is more hazardous than his former assignment in Sta. Mesa, for the reason that it treats of highly inflammable materials. This transfer is the subject of another unfair labor practice complaint, Case No. 959-ULP, which is pending adjudication in another Sala of this Court.

"Complainant Despabiladeras was assigned as a pump operator in the Bulk Oil Section of the Pandacan Terminal under the direct and immediate supervision of a dispatcher who takes charge of the assignments of operators, the schedule of boats and other personnel. The dispatcher appears to be responsible to the general superintendent, who oversees the operations in Pandacan Terminal, among other offices and places of operations. On January 16, 1958, complainant Despabiladeras was notified over the telephone by the general timekeeper, Mr. Juan, who was then calling from the company's office in Sta. Mesa, that in order that to collect his salary, he should produce his residence certificates. The following day, January 17, Despabiladeras reported for work at 6:30 o'clock in the morning although he was supposed to start to work at 7:00 o'clock. The dispatcher in-charge then at that very hour was Mr. Villaruz and Despabiladeras asked him if there was plenty of work for that day; Villaruz answered that they had only "three points" which meant that there would be only three pump operators; (whereas, there are times when pumping operation call for about nine operators). Despabiladeras then asked permission from dispatcher Villaruz if he could go to the City Hall to buy residence certificates for 1958, and Villaruz said, go right away and come back right away. Complainant then punched in his time card at about 6:59 in the morning. When he returned, after, an absence of two hours, the General Manager, respondent Patrick Macfadden, who was then at the gate of the Terminal, saw him and looked at his watch but did not say anything. Complainant Despabiladeras then proceeded to his place of work which was 300 meters away from the gate and went to work immediately. While working on that same day, he was

summoned to go to the Sta. Mesa Office of the company and there, the general superintendent, Felix Flores, asked him where he went and he answered that he bought his residence certificates as requested by the timekeeper. Mr. Juan, who confirmed that he made such a request. After being questioned by Mr. Flores, complainant claims that respondent Macfadden began lambasting him with harsh words saying with pointed fingers toward him, 'Remember, I will find a way and talk with my legal counsel by which I can separate you from the service.' In the afternoon of the same day, after having been made to sign a certain paper, he was dismissed."

After trial, Presiding Judge Jose S. Bautista rendered a decision, dated November 28, 1959, finding petitioners guilty of unfair labor practice and consequently ordered them—

"(a) to cease and desist from committing such unfair labor practice complaint of; and to reinstate Isabelo Despabiladeras to his former position at the Bulk Oil Section of the respondent in Pandacan with back wages from January 17, 1958 until actually reinstated without loss of whatever rights, privileges and benefits including seniority."

On December 8, 1959, petitioners filed a motion for reconsideration of the decision of Judge Bautista, with the reservation "to file their Memorandum of arguments in support of the instant motion for reconsideration within the 10-day period provided by the Rules of Court of Industrial Relations, as amended." The ten-day period ended on December 18, 1959, but on December 16, 1959, petitioners, through counsel, filed a motion asking for an extension of ten days within which to submit their memorandum of arguments on the ground that Atty. Lucas V. Simbulan, who was personally handling the case, was ill. For this purpose, a medical certificate was attached.

In a resolution dated December 18, 1959, the Court of Industrial Relations denied the motion for extension of time on the ground that it has a "no-extension" policy. Petitioners' counsel received a copy of this resolution on December 23, 1959. On the same day, petitioners filed their memorandum of arguments.

On December 24, 1959, petitioners filed a petition praying that the resolution denying extension of time be reconsidered or modified so as to grant them five of the ten days originally asked for. This petition was denied by the Court of Industrial Relations in its resolution of December 28, 1959 which reiterated its "no extension" policy.

On the same day, December 24, 1959, the union moved for the dismissal of the motion for reconsideration, invoking the "no extension" rule. Petitioners opposed the dismissal of their motion for reconsideration on the ground that their failures to file their arguments on time was due to the illness of their counsel, and that even if the supporting argument were considered as having been submitted out of time, still their motion for reconsideration which they filed on December 8, 1959, could stand alone, because the same "already contained a specification of the errors assigned and (it was) filed within the reglementary period."

After a hearing en banc, the Court of Industrial Relations issued a resolution, dated January 27, 1960, denying petitioners' motion for reconsideration on the ground that the supporting arguments were not submitted on time. Hence, this appeal.

The rules of the Court of Industrial Relations provide as follows:

MOTIONS FOR RECONSIDERATION

"SEC. 15. The movant shall file the motion, in six copies, within five (5) days from the date on which he received notice of the order or decision, object of the motion for reconsideration, the same to be verified under oath with respect to the correctness of the allegations of fact, and serving a copy thereof, personally or by registered mail, on the adverse party. The latter may file an answer in six (6) copies, duly verified under, oath.

"SEC. 16. Both the motion and the answer shall be submitted with arguments supporting the same. If the

arguments can not be submitted simultaneously with said motion, upon notice to the Court, the movant shall file same within ten (10) days from the date of the filing of his motion for reconsideration. The adverse party shall also file his answer within ten (10) days from the receipt by him of a copy of the arguments submitted by the movant.

"SEC. 17. After an answer to the motion is registered, or after ten (10) days from the receipt of the arguments in support of said motion by the adverse party without any answer having been filed, the motion shall be deemed submitted for resolution of the Court en banc, unless it is considered necessary to hear oral arguments, in which case the Court shall issue the corresponding order or notice to that effect.

"Failure to observe the above specified periods shall be sufficient cause for dismissal of the motion for reconsideration or striking out of the answer and/or the supporting arguments, as the case may be."

Under the rules, a period of five days is allowed for the filing of a pro forma motion for reconsideration, although the arguments in support thereof may be filed within ten (10) days after the filing of the motion itself. Failure to observe the periods for filing the motion for reconsideration and its supporting arguments is sufficient cause for dismissing either or both. (Bien, et al. vs. Castillo, et al., G. R. No. L-7428, May 24, 1955)

It is contended that the Court of Industrial Relations abused its discretion in denying petitioners an extension of time for filing arguments in support of their motion for reconsideration despite the fact that their motion was supported by a medical certificate attesting to the illness of their counsel.

It appears that the Court of Industrial Relations, obviously to speed up the disposition of cases, has a standing rule against the extension of the ten-day period for filing supporting arguments and that it was in pursuance of this rule that it denied petitioners' request. This being the case and considering that the lower court is fully empowered to adopt its own rules (Sec. 20, Com. Act No. 103, as amended), the denial of the petitioners' motion for extension of time to file supporting arguments cannot be held arbitrary and an abuse of discretion.

The "no extension" policy of the Court of Industrial Relations is similar to Section 1, Rule 54 of the Rules of Court, under which it was held that the court has no power to grant a new period besides the fifteen days therein provided, for filing a second motion for reconsideration unless of course, the period of fifteen days, after deducting the period during which the first motion for reconsideration was pending, expires without leaving more than two days for the movant to file his second motion in which case he is given full two days. (I Moran, Comments on the Rules of Court 744, 1957) citing *Clauna et al. vs. Clauna et al.*, G. R- No. L-4785, September 15, 1951)

It is next contended that, even without the supporting arguments, petitioners' motion for reconsideration, which they filed on December 8, 1959, was sufficient in itself so that its denial by the Court of Industrial Relations was improper. The question then is whether or not the motion for reconsideration is pro forma. If it is, then its dismissal was proper; otherwise, the Court of Industrial Relations erred in dismissing it. The motion reads in part as follows:

"COME NOW the respondents, by their undersigned counsel, and to this Honorable Court respectfully move for the reconsideration of the Decision of this Court dated November 28, 1959, copy of which was received by the herein movants on December 3, 1959, on the following grounds, to wit:

"I. That the decision is contrary to law; and

"II. That the decision is contrary to the facts adduced.

"The legal conclusion that the respondents are guilty of the unfair labor practices charged seems to have been based, among others, on the following erroneous findings of facts:

"(1) That the work of a dispatcher, like Juan Villaruz, includes the authority to assign pump operators, the scheduling of boats and other personnel to leave their place of work during office hours;

"(2) That Exhibit '1' had no evidentiary value, it having been signed 'against his (Despabiladera's) heart and after the signor had been told that 'it was nothing.'

"(3) That complainants' witness, Juan Villaruz, was never investigated for giving permission to Despabiladeras;

"(4) That an unauthorized leave on company's time is in no way prejudicial to the respondents;

"(5) That respondents' regulation regarding the giving of permission to leave during working hours and as to who can give said permission was promulgated only on January 17, 1958;

"(6) That the statement imputed to respondent Mr. Patrick Macfadden stands undented and uncontradicted; and that, as a consequence thereof, there was already deliberate desire on the part of the said respondent to dismiss complainant Despabiladeras because of the latter having filed unfair labor practice charges in Case No. 959-ULP;

"(7) That the personal business attended to by complainant Despabiladeras was urgent and same could be done on company's time even without being properly permitted to leave the premises of the company;

"(8) That complainant Despabiladeras' purpose in leaving his place of work on company's time, was to get a residence certificate and that he, in fact, did get such certificate."

While the motion singles out the portions of the decision that are claimed to be erroneous, the motion, aside from stating that the decision was contrary to law and the evidence, does not explain why. Obviously, it was because of this failure of their motion to point out why the portions thus singled out were erroneous that petitioners reserved their right to file supporting arguments. For it is not enough that a motion should state what part of a decision is contrary to law or the evidence; it should also point out why it is so, as claimed by the movant.

"Where the motion for reconsideration was based on the claim that the finding of the trial court as to the authenticity of the disputed signature, Exhibit 'A', was not justified by the evidence submitted which is the testimony of the expert witness denying such authenticity, and said motion points out why the findings of the court is not justified by the evidence, said motion is clearly not a pro forma motion for new trial or reconsideration." (Pandes vs. Hon. Teodoro, et al., 94 Phil., 942).

We therefore hold that the Court of Industrial Relations committed no error in dismissing petitioners' motion for reconsideration. As a consequence, the decision of Presiding Judge Bautista became final and unappealable. For when the Industrial Peace Act (Rep. Act No. 875) authorizes an appeal from a decision of the Court of Industrial Relations to the Supreme Court, the decision that can be appealed is that rendered by the court en banc and not that rendered by any judge thereof. (Broce, et al. vs. Court of Industrial Relations, et al., 106 Phil., 388). We feel it unnecessary to pass upon petitioners' third assignment of error dealing with the merits of the decision. At any rate, we have gone over the decision and we find the same to be supported by substantial evidence; we are not wont to review questions of fact, as petitioners urge us to. The Court of Industrial Relations is governed by the rule of substantial evidence rather than by the rule of preponderance of evidence as in ordinary civil case. (Iloilo Chinese Commercial School vs. Fabrigar, et al. G. R. No. L-16600, December 27, 1961).

WHEREFORE, the decision dated November 28, 1959 and the resolution dated January 27, 1960 of the Court of Industrial Relations are hereby affirmed, with costs against petitioners.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon and Makalintal, JJ., concur.

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