

CENTRAL COOPERATIVE EXCHANGE, INC., PETITIONER, VS. LA UNION UNITED WORKERS ASSOCIATION (PLUM), RESPONDENT.*G. R. No. 19048. October 29, 1966*

Ponente: MAKALINTAL, J.

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This is an appeal by way of certiorari from the decision of the Court of Industrial Relations, penned by the Hon. Baltazar M. Villanueva, in its Case No. 18-ULP, as well as from the denial of petitioner's motion for reconsideration.

The factual background of this case is not disputed. The petitioner was engaged in tobacco redrying, with its redrying plant situated in Agoo, La Union. Before it started operation it purchased lands in the vicinity, some at P0.20 a square meter and the rest at P0.80. Operations began on June 4, 1956 and ceased in 1960. The work of its employees and laborers, however, was seasonal. The first season which started on June 4, 1956 terminated on August 31 of the same year. On August 1, in anticipation of the cessation of the plant's operation for that season, the petitioner's employees and laborers were served termination papers to take effect on August 31. There was then no definite policy concerning the procurement of personnel, although landowners who had sold their lands to the petitioner at P0.20 a square meter were given the privilege to have their recommendees work in the plant, while the same privilege was extended to only a few of those who had sold at P0.80 a square meter.

The following year's operation of the plant started in March 1957. In February the central office of the petitioner in Manila issued a memorandum order concerning the procurement of personnel. The policy laid down in that memorandum was to give priority to those recommended by the landowners who had sold their lands to the petitioner at P0.20 a square meter, then to those recommended by the FACOMAS (Farmers Cooperative Marketing Associations), and finally to workers from any source or those recommended by government officials. The validity of that policy has not been questioned in this case and in fact has been upheld by the lower court in its decision.

It appears that in June and July 1956 the respondent union campaigned for membership among the laborers in the petitioner's redrying plant. On August 26, 1956 the union officers informed the petitioner that said union had been organized and then presented a set of demands on September 23, 1956.

When the plant operations started for the 1957 season a number of union members, among other laborers, who had worked in 1956 were not rehired, namely: Aurora Padilla, Victor Refuerzo, Isidro Rivera, Alfredo Dalaza, Juan de Vera, Jose Padilla, Antonio Alaot, Juan Cabilitasan, Nicanor Mabalot, Lydia Fronda, Rafael Ordonia, Anacleto Gatchalian, Juan Dalaza, Juan Difuntorum, Ricardo Alban, Marcela Padilla, Candelario Garcia and Cristino Domondon. As a result of the petitioner's failure to reemploy them the union charged it with unfair labor practice, alleging discrimination by reason of their union membership. In addition, a special case was made out in connection with Dominador Padilla, who worked as mechanic at P4.00 a day since April 1956 but was dismissed in July of the same year on charges of having stolen company properties. He was subsequently cleared of the

charges, but was not rehired for the redrying season of 1957.

On the charge of discrimination the lower court set forth the following considerations in its decision:

"The CCE and its management denied having committed unfair labor practice against the members of complainant union, because all the workers were given termination papers on August 31, 1956. The claim of the CCE and its management would have been valid if complainant union did not send a communication to management on August 26, 1956, informing the same of the formation of complainant union. That was before the termination of the redrying season of the year 1956. Said communication served as a notice to management that effective August 26, 1956, a labor dispute has already commenced between complainant union and management. On September 23, 1956, when complainant union sent the letter of demands to management, that became the core of the dispute between the former and the latter. The contention of management that on September 23, 1956 there were no laborers working in the redrying plant of the CCE is naive, considering that the members of complainant union did not become members during the off-season, but during the redrying season of 1956. After knowing the officers and members of complainant union through the latter's communication of August 26, 1956 and a copy of its roster sent to the company, management refused to accept the workers who were members of complainant union during the redrying season of 1957. To the mind of the Court, such act was plain discrimination against the members of complainant union because of their union-affiliation. Management, however, is not to blame for not accepting union members who were found not fit to work by the physician of the redrying plant of the CCE in 1956, 1957 and 1958. But, as regards the union members who worked in 1956 and who were not found unfit for work, management was guilty of discrimination in refusing to readmit them the following redrying season because of their union-affiliation. No evidence having been adduced by complainant that all the persons listed in Exhibit "I" were recommendees of landowners and were members of complainant union and were refused work in any redrying season, not all of said persons were victims of discrimination by management. It should be noted that recommendees of landowners, who were not members of complainant union, even if they were refused work by management, do not fall within the jurisdiction of this Court. Likewise, members of complainant union, who were not recommendees of landowners, even if they were refused work during any redrying season, are not victims of discrimination. Therefore, only recommendees of landowners, who were members of complainant union and were refused work during any redrying season, not because they were not fit to work, are the victims of discrimination."

With particular reference to Dominador Padilla the court held that his dismissal was motivated by his union activities. Upon these considerations the lower court rendered its judgment ordering the petitioner to pay him back wages from the date of dismissal up to the 1959 redrying season, without reinstatement, and to pay the other laborers aforementioned their back wages from the redrying season "that they were refused work until the 1959 redrying season, also without reinstatement.

The issue of discrimination, as held by the lower court, hinges on three factors: (1) that the laborers concerned were members of the respondent union; (2) that they were recommendees of landowners; and (3) that the failure of the petitioner to reemploy them in 1957 was due to their union membership.

The first factor is not controverted. The truth of the second and the third, however, is assailed by the petitioner on the ground that there is no evidence whatsoever to support them. A corollary element should be considered, which is that all workers and employees of the petitioner, except a skeleton force, were served termination papers on August 1, 1956 to take effect August 31, 1956, since that was the end of the 1956 re-drying season. There is no suggestion that the action thus taken constituted unfair labor practice; it was done in the ordinary course of business. The rehiring for the 1957 season was therefore in the nature of new employment, as to which the petitioner laid down a system of priorities. This was embodied in a memorandum (Exh. 2) which provides:

"1. Legitimate landowners who sold their lands to the CCE at P0.20 a square meter shall be first priority in the

employment of their immediate descendants and ascendants, or the brothers and sisters of his wife or husband, provided a total number for each landowner shall not exceed three.

"In the event a landowner who sold their land at P0.20 a square meter has no relative within the degree above stated, he can recommend two aside from himself."

The record does not show, and indeed the decision itself under review does not state, that the laborers who were adjudged entitled to back wages were recommendees of landowners who had sold their lands to the petitioner at P0.20 and therefore had the priority prescribed for reemployment. All that the lower court found was that they had been recommended by landowners. Even this finding is not supported by substantial evidence in the record; and much less is there evidence that those laborers were recommendees of landowners who had sold their lands to the petitioner at P0.20 a square meter. The burden of proof in this regard was upon the respondent union if it was to make out a case of discrimination and unfair labor practice. It may be gathered from the decision under review that there were other laborers during the redrying season of 1956 not affiliated to the respondent union who were similarly not hired for the season of 1957. If that was so, it is difficult to understand how discrimination can be inferred in respect to those who belonged to the union on the ground of their union membership. There are no circumstances cited by the lower court or by the respondent in its answer to the petition which would reveal in what particular manner the union members had been discriminated against. There are no figures as to how many persons had been recommended for reemployment, who recommended each of them, how many in each class of recommendees were accepted and how many were rejected, and reason for their rejection. It is not enough to show that certain laborers were members of the union and that they were not hired for the season of 1957 in order that a conclusion of unfair labor practice may be justified.

Going back to the case of Dominador Padilla, he was dismissed in July 1956 because he was charged with having stolen company properties. He was subsequently cleared, although according to the petitioner the charge was dismissed when it was found that the properties stolen belonged to the ACCFA and not to the petitioner. But this point is neither here nor there. For the question is whether or not the petitioner's failure to rehire him in 1957 was due to his union activities. Padilla testified that he had been recommended to the petitioner by his parents who had sold land to the petitioner at P0.20 a square meter, and on that basis the lower court declared that he was entitled to priority for the redrying season of 1957. The court committed an error here in giving credence to Padilla's testimony over the recitals in the deed of sale itself (Exh. 1), wherein it appears that the purchase price of the land was P0.80 a square meter. If he was not given preference in the procurement of laborers for the petitioner's redrying season in 1957, it was pursuant to the policy laid down by the petitioner, his union activities being merely coincidental.

In any event, at the start of the redrying season of 1957 the petitioner had no contract with the respondent union concerning the hiring of laborers. The recruitment of new personnel had nothing to do with the season of 1956, at the end of which those who worked during that season were duly separated. The petitioner was free to establish a system of priorities for that purpose, and we do not see how its adherence to that system could constitute unfair labor practice against those who were not hired so as to entitle them to back wages not only for 1957 but even up to 1959.

The judgment appealed from is therefore reversed and set aside, with costs.

Concepcion, C.J., Reyes, J. B. L., Dizon, Regala, Bengzon, J. P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

Barrera, J., on leave.

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