

PAN AMERICAN WORLD AIRWAYS, INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, ET AL., RESPONDENTS.

G.R. No. 20434. July 30, 1966

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is a petition for certiorari to review the order of the Presiding Judge of the Court of Industrial Relations, dated July 10, 1962, in its Case No. 2744-ULP, the dispositive portion of which reads as follows:

"IN VIEW OF THE FOREGOING, this Court finds no basis to declare respondent guilty of unfair labor practice and, therefore, the charge of illegal lock-out is without merit. Respondent is, however, directed to pay members of complainant union who were forced to take leave of absence without pay on February 22, 1961 to February 23, 1961 their two days wages or salaries for the reasons discussed in the preceding paragraphs."

Upon a motion for a partial reconsideration of the above-mentioned order, filed by the herein petitioner Pan American World Airways, Inc. (respondent in the court below), seeking the elimination of that part of the order providing for the payment of two days wages of the members of the herein respondent labor union (petitioner below) who were made to go on leave without pay, the Court of Industrial Relations en banc, in a resolution of August 27, 1962, affirmed said order en toto.

Petitioner Pan American World Airways, Inc. urges now, before this Court, that the respondent Court of Industrial Relations erred in ordering the payment of the two-days wages in spite of the finding that the herein petitioner was not guilty of unfair labor practice.

It appears that on account of a strike staged by respondent Pan American Employees Association on August 1, 1960, against the management of petitioner's branch in the Philippines, the labor dispute was certified by the Office of the President to the Court of Industrial Relations on August 3, 1960 pursuant to Section 10 of Republic Act 875, as it affected an industry indispensable to national interest (Case No. 30-IPA).

During the pendency of this case (No. 30-IPA) in the industrial court, or on February 21, 1961, petitioner filed in the said case an urgent petition praying, upon the ground that due to the illegal stoppage by its flight engineers in the United States which curtailed petitioner's plane flights the world over and because of the uncertain duration of said strike, for authority to place on furlough without pay 80 of its employees, promising to recall them to their work as soon as its operation would be resumed. The industrial court, on the same day, issued an order granting the petition "without prejudice to deciding the petition on the merits later on." [1] Pursuant to said order, petitioner served notice to its employees and placed them on furlough without pay effective February 22, 1961. Because of the termination of the strike in the United States petitioner called back its employees back to work on February 24, 1961. Actually, the employees were on furlough for two days, February 22 and 23, 1961.

Because of the aforementioned furlough, an Acting Prosecutor of the Court of Industrial Relations filed in behalf of respondent union, on April 8, 1961, a complaint charging petitioner of unfair labor practice under Section 4(a), subsection 6, in relation to Sections 13, 14 and 15 of Republic Act 875 (Case No. 2744-ULP), alleging that on

February 21, 1961, the officials of the company, without filing with the Conciliation Service thirty days prior notice and without having first bargained collectively with respondent union pursuant to Section 14 of the Industrial Peace Act and, further, in violation of article 14 of their collective bargaining agreement, locked out some of its members from their work.

Petitioner, in its answer, denied the charge, averring that if some were temporarily laid off it was with the approval of the court and as a result of the curtailment of petitioner's plane flights brought about by the strike in the United States, and that immediately upon its termination petitioner recalled its furloughed employees back to work on February 24, 1961.

On July 10, 1962, the court a quo issued an order declaring that petitioner did not lock out its employees and absolving it from the charge of unfair labor practice. Considering, however, the sudden and abrupt layoff imposed upon the employees concerned which, according to the court, affected them financially and economically, it ordered petitioner to pay them their two-days salaries. Hence this petition for review interposed by petitioner, posing the following query: Petitioner having been absolved from the charge of unfair labor practice and declared not guilty of locking out its employees, may the Court of Industrial Relations order the payment of two-days back wages to its laid off, employees?

The issue raised is not new. In the case of *National Labor Union vs. Insular-Yebana Tobacco Corporation*, G. R. No. L-15363, July 31, 1961, this Court declared:

"A consideration of the entire law on the matter clearly discloses the intention of the lawmaker to consider acts which are alleged to constitute unfair labor practices as violations of the law or offenses, to be prosecuted in the same manner as a criminal offense. The reason for this provision is that the commission of an unfair labor practice is an offense against a public right or interest and should be prosecuted in the same manner as a public offense. It should also be noted that there is no provision in Section 5 for the return or statement of a dismissed employee, if the charge for unfair labor practice has not been proved. On the contrary, the provision of the law is clear and express that if the acts alleged to have been committed as constituting unfair labor practice have not been proved, or if the complainant asks for the dismissal of the case, the charges for unfair labor practice shall be dismissed.

* * * * *

"This prohibition confirms the principle above indicated governing the proceeding in unfair labor practice. * * * This prohibition against the court's exercising its power of conciliation and mediation, is in complete consonance with the directive contained in the same section * * *. The reason for the distinction between an unfair labor practice case and a mere violation of an employer of its contractual obligation towards an employee, is, * * * That unfair labor practice cases involve violation of a public right or policy, to be prosecuted like criminal offenses; whereas a breach of an obligation of the employer to his employees is only a contractual breach to be redressed like an ordinary contract or obligation.

* * * * *

"In conformity with the principle above expressed, we hold that the cases at bar having been instituted expressly as unfair labor practice cases, pursuant to Section 5 of the Industrial Peace Act, and no unfair labor practice having been proved to have been committed, the Court of Industrial Relations has no power to grant remedy under its general powers of mediation and conciliation, such as reinstatement or back wages, but must limit itself to dismissing the charges of unfair labor practice." (*Italics supplied*)

And reiterating the same doctrine in the case of *Baguio Gold Mining Company vs. Tabisola, et al.*, G.R. No. L-15265, *General Offset Press Inc. vs. Anatalio, et al.*

"The sole issue petitioner presents is: Does the Court of Industrial Relations have authority to order

reinstatement and award back wages where the employer was declared not guilty of the unfair labor practice charges?

"A similar question rose in *National Labor Union vs. Insular-Yebana Tobacco Corporation*. This Court's answer was in the negative.

"The law is clear. In an unfair labor practice cases where the Court of Industrial Relations finds that the person charged in the complaint has engaged or is engaging in unfair labor practice, the court is expressly granted the power to order reinstatement with or without backpay. But this authority had been implicitly withheld where the charge is not substantiated. Then the Court of Industrial Relations is directed to simply dismiss the complaint.

"In support of the view that the Industrial Court possesses the questioned authority, respondents contend that said court, under Commonwealth Act 103, has broad powers, including reinstatement and award of back wages; and that in approving Republic Act 875, Congress had not intended to place the employee in a situation where after his unfair labor practice charge is dismissed, he may not be accorded the necessary protection guaranteed by the Constitution and the civil code.

"The authority of the Court of Industrial Relations to order reinstatement under Commonwealth Act 103 is confined to instances covered thereby, i.e., when the court is exercising its power of arbitration and conciliation. In unfair labor practice cases, which are distinctive proceedings prosecuted like criminal offenses, the Industrial Court is inhibited from exercising its powers of arbitration and conciliation.

"The dismissed employee is not entirely without remedy if his charge of unfair labor practice fails and his complaint dismissed, because the breach by the employer of the obligation to him may be redressed like an ordinary contract or obligation." [2]

Respondents contend, however, that because the unfair labor practice case (Case No. 2744-ULP) is an incident of Case No. 30-IPA which was certified by the President to the Court of Industrial Relations, the court a quo can exercise its power of mediation and conciliation and was justified in making the questioned award.

This contention has no merit. It should be noted that Case No. 30-IPA refers to the strike carried out by the members of respondent union on August 1, 1960 protesting the dismissal of their 20 affiliates by petitioner because their services were no longer needed as the ground handling and servicing of its planes was taken over by the Philippine Air Lines. The instant unfair labor practice case, on the other hand, (Case No. 2744-ULP) involves the temporary layoff of 80 of the union members on February 22 and 23, 1961 because they had no work to do due to the curtailment of petitioner's plane flights all over the world, including Manila, brought about by the strike of its flight engineers in the United States. Since these cases involve different employees, issues, and causes of action, and that the basis of the second is distinct, separate, and did not arise out of the first case subject of certification by the President to the industrial court, it certainly is not an incident of the first case as it has no relation thereof whatsoever. And it appearing that the case at bar was instituted expressly and independently as an unfair labor practice pursuant to Section 4(a), subsection 6, in relation to Sections 13, 14, and 15 of Republic Act 875, the industrial court must decide the same in accordance with its limited power embodied in said Act and not on its authority under Commonwealth Act 103. Hence, the court a quo could neither exercise its power of mediation and conciliation nor order the award of back wages but had to limit itself to dismissing the unfair labor practice case, there being no evidence to substantiate it.[3] This opinion finds further support in the recent decision of this Court wherein We held:

"* * * On June 17, 1953, the GSIS Employees Association declared a strike for failure of the GSIS to grant its demands. * * * adoption of scale of salaries * * * continuance of family allowance * * * free hospitalization, and medicine, * * *.

"Upon failure of the System to grant the demands, a general strike took place, and the case was certified to the Court of Industrial Relations.

"On June 11, 1957, the GSIS Employees Association filed a petition, to which they gave the name of 'incidental motion', in the Court of Industrial Relations Case No. 896-V, on behalf of its member Pedro Olase, alleging that said employee was forced to resign, from the GSIS and praying for his immediate reinstatement with pay * * *. The GSIS questioned the jurisdiction of the Court of Industrial Relations to review the dismissal as an incident of the original Case No. 896-V, contending that the case of the dismissal of Olase is not an incident and can not be an incident of the pending action in the Court of Industrial Relations.

"In reply to the above contention, it was claimed on behalf of Pedro Olase that there was an order in said Case No. 896-V prohibiting dismissal of employees during the pendency of the action. The GSIS, argued, in reply, that the dismissal or separation, of Olase could not be an incident of the pending action between the parties. After overruling the motion to dismiss filed by the GSIS, the court below issued the order already quoted above.

"We find merit in the contention of the GSIS that the dismissal of Olase did not arise out of any of the demands made in the strike. The order of the Court of Industrial Relations not to dismiss any employees during the pendency of the case then under consideration must necessarily refer to dismissals occasioned, directly or indirectly, by the demands under consideration, in the case. The malfeasance of which Olase was charged has absolutely no connection with the demands of the GSIS Employees Association, hence the GSIS was not prohibited from, dismissing Olase, for the said malfeasance which has no relation to any of the demands then pending consideration before the Court." (Government Service Insurance System, et al. vs. Court of Industrial Relations, et al., L-17186 and L-17363, October 31, 1961)

Finally, it cannot be disputed that in placing its employees on furlough for two days, petitioner acted in good faith. The record shows that before laying them off it asked permission from the industrial court and only effected the furlough after said court authorized it to do so. As correctly found by the court a quo the layoff was resorted to because "respondent's planes were grounded and there was temporary cessation of work due to the flight engineers' strike in America", and so it believed "that the step taken by respondent was necessary to protect its interest whose business is mainly dependent on the flight of its planes," giving as additional reason that "lack of work as a cause of lay-off is justified." [4] The trial court also found that Petitioner in refusing its employees to work was not motivated by any illicit purpose, and true to its assurance upon the resumption of its operation, petitioner immediately called them back. Inasmuch as petitioner acted in good faith, it should not be ordered to pay back wages to its laid off employees.

"* * * It is, therefore, fair to conclude that the employer had acted in good faith. In reaching this view, this Court holds the opinion that while complainants are entitled to reinstatement on the theory that their separation was based upon a mistaken interpretation of the closed shop provision, they are not however, entitled to back wages because their separation was effected in good faith." (Findlay Millar Timber Company vs. PLASLU, et al., L-18217 & L-18222, September 29, 1962) [4]

The fact that the layoff was sudden and abrupt should not militate against petitioner, not only because the permission it asked for such layoff was granted outright by the court itself, but also because there is no evidence to show that petitioner was aware that its flight engineers in the United States would strike too soon, and that said strike would adversely affect its business in the Philippines. And considering further that the laid off employees were not paid their wages for only two days, We do not believe that the same would place them in such a financial and economic distress as to warrant the award of their back wages.[5]

While it is true that the employees failed to earn the wages they ought to have received if they were allowed to work, it cannot likewise be denied that the company did not earn, and even lost, during the strike as it paid the

wages of the other employees it required to work whose services were needed. Considering, therefore, that the parties had no hand or participation in the situation they were in, and that the stoppage of the work was not the direct consequence of the company's lockout or unfair labor practice, "the economic loss should not be shifted to the employer." [7] Justice and equity demand that each must have to bear its own loss, thus placing the parties in equal footing where none should profit from the other there being no fault of either.

Wherefore, the order of the Presiding Judge of the Court of Industrial Relations dated July 10, 1962, as affirmed by the Court of Industrial Relations en banc, is affirmed in so far it declares petitioner Pan American World Airways, Inc. not guilty of unfair labor practice, but IS REVERSED in so far as it orders said petitioner to pay the members of the respondent labor union, Pan American Employees Association, their wages or salaries for February 22 and 23, 1961 when they were made by the petitioner to go on furlough. The petitioner is absolved from paying the said back wages. No pronouncement as to costs. It is so ordered.

Concepción, C.J., Reyes, J.B.L., Barrera, Dizon, Regala, Makalintal, Sanchez and Ruiz Castro, JJ., concur.

Order affirmed in part and reversed in part.

[1] As quoted from the order.

[2] See also *Cagalawan vs. Customs Canteen, et al.*, L-16031, October 31, 1961; *Naric Workers' Union vs. The CIR, et al.*, L-14999, December 30, 1961; *Pomposa Vda. de Nator, et al. vs. The Hon. CIR, et al.*, March 30, 1962; *Malaya Workers Union, et al., vs. The CIR et al.*, April 23, 1963.

[3] *National Labor Union vs. Insular-Yebana Tobacco Corporation*. *supra*.

[4] "Where the management finds it unnecessary to continue employing some of its laborers * * * said management is authorized to dismiss said laborers, specially when the dismissal is only temporary." (*Arte Español Iron Works Labor Union vs. Pedret*, 100 Phil., 1040)

[4] See also *National Labor Union vs. Zip Venetian Blind, et al.*, L-15827-28, May 31, 1961; *GSIS, et al. vs. CIR, et al.*, L-17186 & L-17363, *supra*

[5] "The case of *Dee Chuan & Co. vs. Nahag, et al.* (L-7201 & L-7211) cited by respondent court was decided on September 22, 1954 and is not applicable because what was awarded to the laborers therein was their separation pay, not back wages, due to the failure of petitioner therein to give the requisite, notice and even to notify the industrial court about their dismissal notwithstanding the injunction it issued. In the instant case the employees were not dismissed but were temporarily laid off for only two days, hence the award in the *Dee Chuan* case was more compelling and justifiable than in the case at bar. Besides, since the *Dee Chuan* case was decided in 1954 while the *Findlay Millar* case and others cited elsewhere in this decision were decided in 1962 or later, the doctrine laid down in the latter cases must control.

[7] *Cromwell Commercial Employees and Laborers Union vs. Court of Industrial Relations, et al.*, G. R. No. L-19778, September 30, 1964) citing *Dinglasan vs. National Labor Union*, 106 Phil. 671.

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