

MANILA CORDAGE COMPANY, PETITIONER, VS. FERNANDO VIBAR, ET AL., RESPONDENTS.*G.R. No. 21663. March 31, 1966*

Ponente: REGALA, J.

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As a result of a labor dispute between petitioner and the Manila Cordage Workers Union (CLO), a strike was declared on August 19, 1949. This strike was submitted for compulsory arbitration to the Court of Industrial Relations in Case No. 349-V(l) and was, in an order dated September 16, 1949, declared "highly unjustified and unreasonable." As a consequence of such finding, the dismissal of the strikers would ordinarily have been ordered. Nevertheless, the strikers were merely ordered "to return to their respective posts within two (2) days from receipt, failing in which the company is authorized to replace them with new workers." As the court subsequently explained, this order was made as an act of "grace," to afford the strikers "a chance to keep their jobs." At the same time, it was thought necessary "as a preventive measure" for the benefit of the petitioner, to impose upon the strikers a prohibition from declaring a strike again within a period of three years.

On October 27, 1958, the respondents, who were among the 1949 strikers, filed a complaint in the Court of Industrial Relations where it was docketed as Case No. 1122-V. They alleged that, in accordance with the return-to-work order of September 16, 1949, they offered to return to their former positions in the petitioner company but that the latter refused them admission. They asked that petitioner company be ordered:

- (a) To reinstate the petitioners (respondents herein) to their former positions in the respondent (petitioner herein) company;
- (b) To pay the petitioners retirement benefit for their past services with the respondent;
- (c) To pay the petitioners three years backpay for the Japanese occupation period;
- (d) To pay each of the petitioners separation pay equivalent to one half (1/2) month of every year of service from the date they started working with the respondent to August 19, 1949 when they staged their last strike; and
- (e) To pay the petitioners such other benefit as may be deemed proper by reason of their past services with the respondent, and by reason of the agreement had between the petitioners and the respondent with respect to Nos. 2, 12, 13, and 14 in the above mentioned fourteen-point demand.

In a decision dated April 20, 1963, the Court of Industrial Relations, while denying all claims of the respondents, awarded them "full backwages from September 20, 1949 up to the period when their replacements were hired but not to exceed a period of thirty (30) days." The petitioner protested the award of backwages but its motion for reconsideration was denied. Hence, this appeal.

Petitioner contends, first of all, that after the lapse of nine years, i.e., from 1949 when the return-to-work order became final to 1958 when the action to enforce it was brought, the Court of Industrial Relations no longer has the power to amend its order. It is claimed that the appealed decision practically extends the two-day ultimatum to one year and abrogates petitioner's power to replace strikers who failed to return to work within two days.

In support of this proposition petitioner cites *San Pablo Oil Factory, Inc. vs. CIR*, G. R. No. L-18270, Nov. 28, 1962, which denied the power of the CIR to amend its decision in an unfair labor practice case by ordering an employer not only to reinstate dismissed employees but also to pay them backwages. But the rationale of that case is not that the CIR is powerless to modify its decision but that matters which that court has already passed upon can no longer be reopened after the decision has become final. Certainly, where the matter came into existence only after the rendition of a decision, the CIR retains the power to amend its decision. Precedents in support of this view are not wanting. In one case, for instance, the CIR approved the lay off of security guards as a result of their replacement by soldiers of the 19th BCT on condition that "if and when the soldiers have been recalled the respondent should take back the security guards." It was held that the CIR could inquire, even after the lapse of four years, whether the contingency, on which the right to reinstatement was predicated had arisen. (*NARIC vs. Henson*, G. R. No. L-15093, July 30, 1960. See also *Katipunan Labor Union vs. Caltex [Phil.] Inc.*, G. R. No. L-10337, May 27, 1952) Here, the reinstatement of respondents was made subject to the condition that they give themselves up within two days. The Court of Industrial Relations certainly retained the power to inquire later whether the respondents returned to work within the period given to them.

This power is derived from sections 7 and 17 of Commonwealth Act No. 103 empowering the court to modify its decisions, orders and awards, even after their finality. Its purpose is to vest in the Court of Industrial Relations continuing control over a case even after its decision therein has become final and executory in order to accord substantial justice to the parties. (*Church v. La Union Labor Union*, 91 Phil. 163 [1952]) This power has not in the least been affected by the enactment of the Industrial Peace Act on June 17, 1953. (*Insular Sugar Refining Corp. vs. CIR*, G. R. No. L-12108, Sept. 29, 1959) Since the CIR retained jurisdiction over the original case (Case No. 349-V [I]) for purposes of determining whether the strikers returned to work within two days, it may not be argued that the CIR can no longer award backwages in the exercise of its power of compulsory arbitration after the enactment of the Industrial Peace Act.

Nor is there any merit in the claim that respondents' action should have been brought within a year from the time they were refused admission by the petitioner. It is true that in one case the statement was made that actions for reinstatement must be filed within a "reasonable time, say one year." (*Gutierrez vs. Bachrach Motor Co.*, G. R. Nos. L-11298, 11586 and 11603, Jan. 19, 1959) But it is important to note that the respondents' action is not an action for reinstatement. Their right to reinstatement had already been established in the return-to-work order of September 16, 1949. It was only to enforce that right that this case was filed.

This brings us to petitioner's last point, which, in our opinion, is well taken. The return-to-work order was received by the strikers on September 17, 1949. This means that they had until September 19, to give up their strike and return to work. Did the respondents in this case, who were among the strikers, return to work on or before September 19?

The Court of Industrial Relations found they did, thus—

"It is apparent from the records that petitioners reported back for work upon learning that this Court ordered them to return to work. In fact, they reported back to work for the first time sometime in September 1949 then in January 1950, January 1953 and lastly in January 1956. When they first reported back to work, Mr. Centeno and Mr. Nazario, the supervisor and second superintendent, respectively, told them that they could not yet be accepted back to work because respondent was still in the stage of preparing to resume full operation. They were told that they will, however, be notified when they will be called back to work. Sometime in January 1950, petitioner Fernando Vilar received a communication from respondent asking him to come to respondent's office and when he did, he was told by the manager that he could no longer be accepted back to work and was Sold instead to draw the balance of his salary.

"When petitioners, numbering around forty first reported back, their representatives were told by the mill superintendent, Mr. Green, that as soon as the company have made the necessary adjustments, they will be called back to work. The conversation that petitioners had with Centeno and Nazario is different from the conversation that the representatives had with the mill superintendent. When they reported back to work for the first time, the security guard then posted at the company gate refused to allow them to enter and it was here that the conversation with Centeno and Nazario took place. Later, their representatives like Vibar and Glipeneo were allowed to come in and were able to talk with Green. The promises made by Centeno and Nazario were substantially the same as that made by Green. In spite of this promise, though, not one of the petitioners was able to return to work. Hence, they were forced to file this case."

But the foregoing findings of the CIR are contradicted by the following evidence in the record.

First, on September 27, 1949, petitioner had to ask for an injunction precisely on the allegation that respondent Vibar and other officers and members of the union were intimidating other strikers who wanted to return to work, and the following day the court had to issue an injunctive order. As of September 27, 1949, then, respondents, against whom the injunction was directed, had not returned to work but were maintaining their illegal strike.

Second, it appears that on November 5, 1949, respondents' union asked the court for clarification as to whether the filing of their motion for reconsideration in Case No. 349-V (1) suspended the two-day ultimatum given to the strikers, and the court stated that it did not because the return-to-work order expressly stated that it would be effective immediately. If respondents had returned to work on September 19 as the CIR found, why was there a need for them to secure a clarification?

Third, in their petition in Case No. 1122-V, respondents made the vague allegation that they returned to work but were refused admission into the petitioner company. When asked to specify, respondents stated in their bill of particulars that they "tried to return to their former positions with the respondent company sometime (a) in October, 1949, February, 1950; January, 1953 and January, 1956." It would appear, therefore, from respondents' own admission that they did not return to work within two days of September 17 (when they received a copy of the return-to-work order), because they offered to return to work only "sometime in October, 1949."

The evidence therefore shows that in defiance of the court's order to return to work within two days, respondents continued their unlawful strike. In fact in the appealed decision, the court, unable to explain the issuance of an injunction on September 28, 1949 against the strikers, had to rationalize by stating that, pending resolution of the union's motion for clarification as to when the return-to-work order took effect, the strikers had a right to "exercise their economic weapon of maintaining the picket line." But if the court itself maintained that the two-day period had not been suspended by the filing of a motion for reconsideration of the return-to-work order, indeed, if the court itself had found in the earlier case that the strike was "unjustified and unreasonable," how could the same court in the next breath assert that until a clarification was made the strikers had a right to continue that strike?

As stated in the beginning, the two-day period given to the strikers was an act of grace on the part of the court, intended to give the strikers every chance to make good after their strike had been found illegal. In not taking advantage of that opportunity, respondents have shown themselves undeserving of further consideration. Petitioner had the right to replace them and should not be penalized for exercising that right by being made to pay backwages.

Wherefore, the order of April 30, 1963 and the resolution of May 17, 1963, so far as they award backwages to the respondents, are hereby reversed, without pronouncement as to costs.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Makalintal, Bengzon, J. P., Zaldivar, and

Sanchez, JJ., concur.

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