

MANILA TRADING & SUPPLY CO., PETITIONER, VS. THE HONORABLE FRANCISCO ZULUETA, JOSE G. GENEROSO, AND LEO POLDO ROVIRA, JUDGES OF THE COURT OF INDUSTRIAL RELATIONS, AND PHILIPPIN...*G.R. No. 46853. January 30, 1940*

Ponente: LAUREL, J.

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This is a petition for a writ of certiorari to review the decision of the Court of Industrial Relations promulgated on August 8, 1929, denying the petitioner's motion for reconsideration of its previous order directing the reinstatement of laborer Filomeno Ramollo. 486 PHILIPPINE REPORTS.

On July 7, 1938, the Secretary of Labor apprised the Court of Industrial Relations of a labor dispute existing between the petitioner company and its employees who were members of the Philippine Labor Union, which was forthwith docketed as case No. 49 and entitled, "Philippine Labor Union v. Manila Trading and Supply Co.** A preliminary hearing was held after which, on August 6, 1938, the respondent court entered an order requiring the company, inter alia, not to dismiss any of its employees and laborers except for good cause and with its permission. Subsequently, on June 30, 1939, one of the gatekeepers of the petitioners, Filomeno Ramollo, was suspended for a breach of duty. The breach consisted in that as gate keeper of the petitioner he permitted, contrary to instructions, one of the customers to pass thru the exit gate without paying for the work done on the car. Before this, it is also alleged that he refused to work in the setting up department of the company when ordered by his superior. The Philippine Labor Union submitted a petition in case No. 49 requesting the reinstatement of the suspended laborer, to which an answer was filed by the company. In its order of July 28, 1939, the respondent court found that the laborer was guilty of the breach imputed to him, but, deciding that his suspension from June 30 to July 28, 1939 was a sufficient punishment, ordered his immediate reinstatement. The petitioner moved for reconsideration, but the respondent Court of Industrial Relations, sitting in banc, denied the motion. Hence, this petition for certiorari.

The whole controversy is centered around the right of the Court of Industrial Relations to order the readmission of a laborer who, it is admitted, had been found derelict in the performance of his duties towards his employer. We concede that the right of an employer to freely select or discharge his employees, is subject to regulation by the State basically in the exercise of its paramount police power. (Commonwealth Acts Nos. 103 and 213.) But much as we should expand beyond economic orthodoxy, we hold that an employer cannot legally be compelled to VOLUME 69. 487 continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interests. The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer. There may, of course, be cases where the suspension or dismissal of an employee is whimsical or unjustified or otherwise illegal in which case he will be protected. Each case will be scrutinized carefully and the proper authorities will go to the core of the controversy and not close their eyes to the real situation. This is not

however the case here.

The writ of certiorari prayed for is hereby granted, and the order of the Court of Industrial Relations appealed from, reversed, without pronouncement regarding costs.

So ordered.

Avanceña, C.J., Villa-Real, Imperial, Diaz, and Concepcion, JJ., concur.

Writ granted.

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