

MANILA TRADING & SUPPLY CO., PETITIONER, VS. PHILIPPINE LABOR UNION, RESPONDENT.*G.R. No. 47233. December 19, 1940*

Ponente: LAUREL, J.

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This is a petition for a writ of certiorari to review the resolution, dated January 15, 1940, of the Court of Industrial Relations entered in its case No. 49, entitled "Philippine Labor Union vs. Manila Trading & Supply Co."

On July 7, 1938, the Secretary of Labor certified to the Court of Industrial Relations that an industrial dispute existed between the petitioner and certain of its employees who are members of the respondent union, and that the controversy was a proper one to be dealt with by said court in the public interest. The matter was thereupon docketed as case No. 49 of the Court of Industrial Relations. After a preliminary conference, an order was entered on August 6, 1938, by the Honorable Jose G. Generoso, one of the judges of said court, requiring the petitioner, inter alia, not to dismiss any of its employees and laborers without just cause and without the previous consent of the court.

On August 15, 1938, and during the pendency of the industrial dispute above referred to, the petitioner discharged the employee Gavino David, on the alleged ground of reduction of personnel and for irregularities committed by the said employee in the performance of his duties. On September 1, 1938, the respondent Philippine Labor Union filed a petition in Case No. 49, praying for the readmission of Gavino David and other employees who were similarly dismissed, alleging that their separation from the service was without just cause and without the previous consent of the Court of Industrial Relations. The matter was referred by the court to Mr. Manuel Escudero, attorney of said court, before whom evidence was taken. Mr. Escudero, on September 7, 1939, filed his report. On November 3, 1939, the Honorable Jose G. Generoso entered an order providing for the reinstatement of the discharged employees, including Gavino David, the dispositive part of which, in so far as it concerns David, reads as follows:

"De las pruebas y demas datos, resulta probado:

* * * * * "Que en los balances de los libros de la compania durante los anos de 1937 y 1938 se demuestra que la misma ha marginado una ganancia razonable, en proportion a su capital invertido.

"Que la suspension indefinida de que se trata equivale a un despido porque en los talleres de la recurrida hay trabajo para los obreros suspendidos.

"La alegación de la compania al efecto de que Gavino David fue suspendido no solamente con el objeto de reducir el personal sino tambien porque es un obrero ineficiente y holgazan * * * no esta apoyada por los meritos del presente caso, pues resulta que los archivos de la compania demuestran, segun investigation del Auditor de este Tribunal y por propia admision de la recurrida, que Gavino David fue suspendido, segun su tarjeta de servicio (service card), por reduction de personal, y solamente cuando se trajo el caso ante el Tribunal y se investigaron los despidos, es cuando la recurrida alego como una causa mas, la de ineficiencia y

holgazaneria. Resulta que tal ineficiencia y holgazaneria lo deduce la recurrida del hecho de que Gavino David requirio mas tiempo del necesario, para volver a Manila cuando Hevo un auto a Bagnio por orden de dicha recurrida, y de Baguio salio para Dagupan, de cuyo municipio trajo un truck de segunda mano a Manila. Gavino David explico, que tuvo muchas roturas de gomas en el camino, y la recurrida por su parte, corroborando tal explicacion, aprobo y pago los gastos, en que habia incurrido dicho David en la cantidad de P31.72 por el referido viaje, algunos de los cuales representan pagos por vulcanization de gomas que se rompieron durante el viaje.

* * * * * "Ateniendose a las conclusiones y consideraciones antes consignadas, el Tribunal es de opinion que los nueve obreros de que se trata, fueron privados de su trabajo por la recurrida con infraccion del art. 19 de la Ley No. 103 del Commonwealth, tal como esta reformado por el art. 1.º de la Ley No. 355, tambien del Commonwealth."

On November 11, 1939, the petitioner filed a motion for reconsideration, praying that the same be set for hearing before the court in bane, and that after hearing, the order of November 3, 1939, be set aside and the petitioner authorized to definitely discharge the employee Gavino David. The Court of Industrial Relations declined to set the motion for reconsideration for oral argument before the court as prayed for therein, and, on January 15, 1940, entered a resolution in bane denying said motion. Hence, this petition for certiorari.

The petitioner now makes the following assignment of errors:

"1. The lower tribunal deprived petitioner of a fair and open hearing when it failed to set the report of Mr. Manuel Escudero for hearing before deciding the Gavino David incident.

"2. The lower tribunal, in deciding the Gavino David incident, erred in considering 'datos' which were not submitted by the parties as evidence in the case.

"3. The lower tribunal deprived petitioner of a 'fair and open hearing' when it refused to set the motion for reconsideration of November 11, 1939 for hearing.

"4. The lower tribunal erred in preventing the dismissal of Gavino David when the cause for the latter's discharge was not due or related to the employee's union activities or affiliation.

In the case of *Ang Tibay vs. The Court of Industrial Relations*, G. R. No. 46496 (decision on motions for reconsideration and new trial), promulgated February 27, 1940, we laid down certain fundamental principles affecting procedure in cases brought before the Court of Industrial Relations. In that case, we said:

"In the case of *Goseco vs. Court of Industrial Relations* G. R. No. 46673, promulgated September 13, 1939, we had occasion to point out that the Court of Industrial Relations is not narrowly constrained by technical rules of procedure, and the Act requires it to 'act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms and shall not be bound by any technical rules of legal evidence but may inform its mind in such manner as it may deem just and equitable.' (Section 20, Commonwealth Act No. 103.) It shall not be restricted to the specific relief claimed or demands made by the parties to the industrial or agricultural dispute, but may include in the award, order or decision any matter or determination which may be deemed necessary or expedient for the purpose of settling the dispute or of preventing further industrial or agricultural disputes. (Section 13, *ibid.*) And in the light of this legislative policy, appeals to this court have been especially regulated by the rules recently promulgated by this court to carry into effect the avowed legislative purpose. The fact, however, that the Court of Industrial Relations may be said to be free from the rigidity of certain procedural requirements does not mean that it can, in justiciable cases coming before it, entirely ignore or disregard the fundamental and essential requirements of due process in trials and investigations of an administrative character. There are cardinal primary rights which must be respected even in proceedings of this character:

"(1) The first of these rights is the right to a hearing, which includes the right of the party interested or affected to present his own case and submit evidence in support thereof. In the language of Chief Justice Hughes, in *Morgan vs. U. S.*, 304 U. S., 1; 58 S. Ct, 773, 999; 82 Law. ed., 1129, 'the liberty and property of the citizen shall be protected by the rudimentary requirements of fair play.'

"(2) Not only must the party be given an opportunity to present his case and to adduce evidence tending to establish the rights which he asserts but the tribunal must consider the evidence presented. (Chief Justice Hughes in *Morgan vs. U. S.*, 298 U. S., 468; S. Ct, 906; 80 Law. ed., 1288.) In the language of this court in *Edwards vs. McCoy* (22 Phil., 598), 'the right to adduce evidence, without the corresponding duty on the part of the board to consider it, is vain. Such right is conspicuously futile if the person or persons to whom the evidence is presented can thrust it aside without notice or consideration.

"(3) 'While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, at least when directly attacked/ *Edwards vs. McCoy*, supra.) This principle emanates from the more fundamental principles that the genius of constitutional government is contrary to the vesting of unlimited power anywhere. Law is both a grant and a limitation upon power.

"(4) Not only must there be some evidence to support a finding of conclusion (*City of Manila vs. Agustin*, G. R. No. 45844, promulgated November 29, 1937, 36 Off. Gaz., 1335), but the evidence must be 'substantial' (*Washington, Virginia & Maryland Coach Co. vs. National Labor Relations Board*, 301 U. S., 142, 147; 57 S. Ct., 648, 650; 81 Law. ed., 965.) 'Substantial evidence is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion/ (*Appalachian Electric Power Co. vs. National Labor Relations Board*, 4 Cir., 93, F. 2d., 989; *National Labor Relations Board vs. Thompson Products*, 6 Cir., 97, F. 2d., 13, 15; *Ballston-Stillwater Knitting Co. vs. National Labor Relations Board*, 2 Cir., 98, F. 2d., 758, 760.) * * * The statute provides that 'the rules of evidence prevailing in courts of law and equity shall not be controlling. The obvious purpose of this and similar provisions is to free administrative boards from the compulsion of technical rules so that the mere admission of matter which would be deemed incompetent in judicial proceedings would not invalidate the administrative order. (*Interstate Commerce Commission vs. Baird*, 194 U. S., 25, 44; 24 S. Ct, 563, 568; 48 Law. ed., 860; *Interstate Commerce Commission vs. Louisville & Nashville R. Co.*, 227 U. S., 88, 93; 33 S. Ct., 185, 187; 57 Law. ed., 431; *United States vs. Abilene & Southern Ry. Co.*, 265 U. S., 274, 288; 44 S. Ct., 565, 569; 68 Law. ed., 1016; *Tagg Bros. & Moorhead vs. United States*, 280 U. S. 420, 442; 50 S. Ct., 220, 225; 74 Law. ed., 524.) But this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. Mere uncorroborated hearsay or rumor does not constitute substantial evidence. (*Consolidated Edison Co. vs. National Labor Relations Board*, 59 S. Ct., 206, 83 Law. ed., No. 4, Adv. Op., p. 131.)

"(5) The decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected. (*Interstate Commerce Commission vs. L. & N. R. Co.*, 227 U. S., 88; 33 S. Ct., 185; 57 Law. ed., 431.) Only by confining the administrative tribunal to the evidence disclosed to the parties, can the latter be protected in their right to know and meet the case against them. It should not, however, detract from their duty actively to see that the law is enforced, and for that purpose, to use the authorized legal methods of securing evidence and informing itself of facts material and relevant to the controversy. Boards of inquiry may be appointed for the purpose of investigating and determining the facts in any given case, but their report and decision are only advisory. (Section 9, Commonwealth Act No. 103." The Court of Industrial Relations may refer any industrial or agricultural dispute or any matter under consideration or advisement to a local board of inquiry, a provincial fiscal, a justice of the peace or any public official in any part of the Philippines for investigation, report and recommendation, and may delegate to such board or public official such powers and functions as the said court of Industrial Relations may deem necessary, but such delegation shall not affect the exercise of the court itself of any of its powers (Section 10, *ibid.*)

"(6) The Court of Industrial Relations or any of its judges, therefore, must act on its or his own independent consideration of the law and facts of the controversy, and not simply accept the views of a subordinate in arriving at a decision. It may be that the volume of work is such that it is literally impossible for the titular heads of the Court of Industrial Relations personally to decide all controversies coming before them. In the United States the difficulty is solved with the enactment of statutory authority authorizing examiners or other subordinates to render final decision, with right to appeal to board or commission, but in our case there is no such statutory authority.

"(7) The Court of Industrial Relations should, in all controversial questions, render its decisions in such a manner that the parties to the proceeding can know the various issues involved, and the reasons for the decisions rendered. The performance of this duty is inseparable from the authority conferred upon it."

In the light of the foregoing fundamental principles, we shall now proceed to determine whether, under the facts of this case, the petitioner was deprived of a "fair and open hearing" as claimed. It appears that before the Honorable Jose G. Generoso, one of the judges of said court, authorized Mr. Escudero to receive the evidence of the parties, the petition for readmission of the dismissed laborers, including Gavino David, was first heard by the said judge on September 28, 1938, December 20, 1938, and April 11, 1939. It appears furthermore that in the course of the proceedings had before Judge Generoso and in the taking of evidence before Attorney Escudero, the petitioner was represented by its attorney and was accorded every opportunity to present its evidence and to object to the evidence presented by the respondent. It also appears that:

"En la vista de este asunto celebrada el día 28 de septiembre de 1938, la recurrida (now petitioner), por medio de su abogado, pidió con insistencia el nombramiento de un agente y del auditor del Tribunal para que investigaran el estado financiero de la recurrida y la cuestion de los despidos de obreros, de que se quejaba la recurrente (t. n. t, pags. 27, 29, 32 y 33), cuya petición fue concedida no obstante la oposicion de la recurrente (now respondent).

"Una vez rendido el informe de los mencionados agente y auditor, la recurrente (now respondent) lo impugnó bajo el fundamento de que no cubría todos los extremos del caso, pero la recurrida (now petitioner) sostuvo la actuación de los investigadores, y en escrito de fecha 22 de marzo de 1939, entre otras cosas dijo lo siguiente: 'The report of Messrs. Alvarez and Lopez is comprehensive, and there is no need for further evidence. The court should decide the incident in question in accordance with said report (Resolution of Jan. 15, 1940, denying petitioner's motion for reconsideration.)"

It is clear that the petitioner was not deprived of its right to present its own case and to adduce evidence in support thereof. If as stated by the court in its resolution quoted above the petitioner was satisfied with the report of Messrs. Alvarez and Lopez and expressly informed the court that there was no need for further evidence, it is not seen how the failure of the Court of Industrial Relations to set Mr. Escudero's report for hearing could have prejudiced the petitioner or deprived it of a fair and open hearing as claimed. Section 10 of Commonwealth Act No. 103 empowers the Court of Industrial Relations to "refer any industrial or agricultural dispute, or any matter under consideration or advisement by the Court under the provisions of section four hereof to a local board of inquiry, a provincial fiscal, a justice of the peace or any public official in any part of the Philippines for investigation, report, and recommendation, and may delegate to such board or public official such powers and functions as the said Court of Industrial Relations may deem necessary; but such delegation shall not affect the exercise by the Court itself of any of its powers or functions." The purpose of this provision is the expeditious determination of industrial and agricultural disputes and is in accord with the declared policy of freeing said court from the fetters of technicalities and legal forms, subject, of course, to the limitation that no party shall be deprived of his right to present his own case and submit evidence in support thereof. And neither was petitioner denied this right when the said court refused to set its motion for reconsideration for oral argument. This is a

matter which rests upon the sound discretion of the Court of Industrial Relations and which it may regulate in pursuance of its rule-making power under section 20 of Commonwealth Act No. 103.

The petitioner complains that the Court of Industrial Relations, in rendering its order of November 3, 1939, considered "datos" which were not submitted by the parties as evidence in the case. The petitioner, however, has not pointed out which of the findings of fact contained in the said order are not supported by evidence, or what particular "datos" allegedly not of record and not disclosed to the parties were relied upon by the said court. The petitioner's assignment of error concerning this point is based solely on the opening statement "De las pruebas y demas datos resulta probado:" which precedes the statement of the facts which the court considered as proved. We are here, therefore, called upon to deal with a proposition in the abstract and which we cannot resolve without speculating as to the precise import of the statement in question.

In support of its last assignment of error the petitioner contends that under section 19, as amended, of Commonwealth Act No. 103, the Court of Industrial Relations does not have the power to prevent an employer from discharging an employee if the cause for the discharge, whatever it might be, is not attributable to a desire to curtail the union activities of the employee. The pertinent provision of section 19 as it stood at the time this incidental controversy arose reads as follows:

"Sec. 19. Implied condition in every contract of employment. —In every contract of employment or tenancy, whether verbal or written, it is an implied condition that when any dispute between the employer or landlord and the employee, tenant or laborer has been submitted to the Court of Industrial Relations for settlement or arbitration pursuant to the provisions of this Act or when the President of the Philippines has ordered an investigation in accordance with section five of this Act with a view to determining the necessity and fairness of fixing and adopting a minimum wage or share of laborers or tenants, and pending award or decision by the court of such dispute or during the pendency of the investigation above referred to, the employee, tenant, or laborer shall not strike or walk out of his employment when so enjoined by the court after hearing and when public interest so requires, and if he has already done so, that he shall forthwith return to it, upon order of the court, which shall be issued only after hearing when public interest so requires or when the dispute cannot, in its opinion, be promptly decided or settled; and if the employees, tenants or laborers fail to return to work, the court may authorize the employer or landlord to accept other employees, tenants, or laborers. A condition shall further be implied that while such dispute or investigation is pending, the employer or landlord shall refrain from accepting other employees, tenants or laborers, unless with the express authority of the court, and shall permit the continuation in the service of his employees, tenants or laborers under the last terms and conditions existing before the dispute arose."

The evident purpose of section 19 is to maintain the parties in status quo during the pendency of an industrial or agricultural dispute in order to safeguard the public interest and aid the Court of Industrial Relations in the effective settlement of controversies which threaten to disrupt industrial peace and progress. As will be seen, the right of the employees, tenants, or laborers to be continued in the service under the last terms and conditions existing before the dispute arose carries with it the corresponding obligation on their part not to strike or walk out of their employment, or to return to it if they have already done so. But the right of the employees or laborers to be continued in the service is not without limitation, for as we have held in the case of *Manila Trading & Supply Co. vs. Zulueta et als.*, G. R. No. 46853, "an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service "f the latter is patently inimical to his interests." That is to say, a discharge for a justifiable cause is allowed, and since under section 19 of Commonwealth Act No. 103 the obligation of the employer to continue the employee, tenant, or laborer in the service is incidental to the pendency of an agricultural or industrial dispute, and is imposed, as we have stated, in the public interest and to aid the court in the effective settlement of such dispute, the power of the said court to determine whether a justifiable cause exists

is recognized. Similarly, Section 19 has expressly empowered the Court of Industrial Relations to determine whether public interest requires that it order the laborer, tenant, or employee not to strike or walk out during the pendency of an agricultural or industrial dispute, and it is in this obvious spirit of the law that we should construe the provision under consideration.

The petitioner raises certain constitutional objections against the power of the Court of Industrial Relations under section 19 of Commonwealth Act No. 103 to prevent the discharge of an employee without justifiable cause. We have already held 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. (*Manila Trading & Supply Co. vs. Zulueta supra.*)

The writ of certiorari prayed for is hereby denied, with costs against the petitioner. So ordered.

Avanceña, C.J., Imperial, Diaz, and Horrilleno, JJ., concur.

Writ denied.

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