

REX TAXICAB COMPANY, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND THE PHILIPPINE TAXI DRIVERS' UNION, RESPONDENTS.

G.R. No. 47303. November 25, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

This is a petition for the issuance of a writ of certiorari annulling the order of the Court of Industrial Relations of February 1, 1940, ordering the petitioner, Rex Taxicab Company, to reinstate to their respective positions in said company all its striking employees.

The petitioner, an operator of a taxicab service in the City of Manila and its suburbs, promulgated on December 31, 1939, a set of regulations for the observance of its drivers beginning January 1, 1940. Said regulations imposed certain fines upon drivers who do not wear caps, have no ties or sport shirts, smoke while having passengers, have no coats while driving, are absent without excuse, come late to the car barn, make provincial trips without notice, or do not report accidents. Some time after January 1, 1940, the petitioner promulgated another set of regulations, effective February 1, 1940, covering the following twenty-one points, namely: drivers' clothing, late report for duty, absence from duty, late return of car, overloading, provincial trips, broken taximeter, signal light, alcoholic drinking, gambling, speeding, personal use of taxi, putting the flap up while having passengers, leaving the taxi, damages to the taxi, running with flat tire, insubordination, sleeping while on duty, slow earners, shortages, damages due to careless handling of car, discourtesy, complaints of passengers. Said regulations imposed penalties ranging from fine to dismissal for the violation thereof. It is noteworthy that the second set of regulations covered practically all the points dealt with in the first. On January 17, 1940, the petitioner imposed on and collected from some of its drivers certain fines for alleged non-observance by them of the regulations first promulgated. The next day, or on January 18, 1940, the respondent Philippine Taxi Drivers' Union in which the drivers of the petitioner were affiliated, addressed a letter to the latter protesting against the regulations and making the fourteen demands enumerated therein, copy of which letter was furnished the Department of Labor. As a result of said protest, various conferences between the representatives of the petitioner and of the respondent union were held in the Department of Labor, by virtue of which a settlement was reached as to ten of said demands. Another conference was to be held in the office of the Department of Labor on January 22, 1940, but before said conference could be held the drivers of the petitioner went on a strike on the evening of January 20, 1940. Whereupon, on January 22, 1940, the Secretary of Labor certified to the Court of Industrial Relations that an industrial dispute existed between the petitioner and its forty drivers, with the information that the issues to be considered and decided have reference to the following demands of the strikers: (1) The petitioner should not impose any fine on drivers caught overspeeding or overloading; (2) Regular drivers should continue as such and should not be dismissed without due consultation with their union; (3) No slow earners should be fined or punished; and (4) Readmission of driver Santiago Agbulos. The industrial dispute was docketed in the Court of Industrial Relations as Case No. 148, entitled Philippine Taxi Drivers' Union vs. Rex Taxicab Company.

At the commencement of the trial of said case No. 148 in the Court of Industrial Relations, the respondent Philippine Taxi Drivers' Union, through its attorney, verbally petitioned the court to order the petitioner Rex Taxicab Company to reinstate its striking drivers to which petition the petitioner Rex Taxicab Company objected, on the ground that the strike was unjustified and that (a) the strikers were guilty of violence and sabotage by unlawfully and feloniously assaulting, injuring, threatening, or coercing the petitioner, its employees and laborers and damaging its property and business; (b) they were not permanent employees as they worked only when they pleased, had no fixed salaries or wages, and worked only on commission basis; (c) they had already left voluntarily petitioner's service before the case reached the Court of Industrial Relations and the petitioner had already admitted a sufficient number of drivers in its service; and (d) the public service was not in the last affected by such change of drivers.

The Court of Industrial Relations, after hearing, found that the strike was justified and ordered the petitioner Rex Taxicab Company to reinstate all the strikers to their respective positions. The pertinent findings of the Court of Industrial Relations are contained in the following passages of the appealed order:

"As to the contention regarding the unreasonableness of the strike, it has been established in evidence that the same was provoked by the management itself when it put into force and effect part of the company regulations appearing on folios 3 to 7 of the record of this case. It is true that these regulations existed since the date the respondent commenced its taxicab operation, but, then, no pecuniary penalties were imposed on the chauffeurs who infringed them. In lieu thereof, warnings, suspensions, or dismissals in case of persistent infractions, were meted to violators. The practice of imposing fines was resorted to only after respondent's drivers had, in case No. 99 of this Court, petitioned for better working conditions, and was made effective on January 17, 1940, when it began deducting from the salaries (commissions) of its chauffeurs said fines as shown by Exhibits A and A-1 to A-15 of the petitioner.

"These regulations have been! the subject of perusal by the court and it finds that the penalties stipulated therein for chauffeurs who might breach them are oppressive and unjust. Oppressive because the fines provided are too heavy for the drivers to bear and are imposed summarily upon the drivers without previous investigation of the offense. Unjust because as stated by the company cashier, the fines collected were destined to form part of the miscellaneous income of the respondent. The court is of the opinion that no concern has the right to enrich itself on fines collected from its employees.

"The court finds the protest of the taxi drivers justified. If the strikers quit work even while their grievances were pending investigation by the Department of Labor, it was mainly because at said investigation they were unduly provoked by the manager of the respondent and partly because they have reached that point when patience has ceased to be a virtue with them.

"Coming to the imputation of sabotage, the court is of the belief that such acts of sabotage have been proven against the strikers. On the contrary, it has been established to the satisfaction of the court that the officers of the petitioner have, at its daily meetings, been counselling its members to maintain and preserve peace and order, and to await the decision of the Court of Industrial Relations. Even witnesses of the respondent testified to fact which clearly proved that the strike was carried on peacefully.

While it has not been contradicted that two of the witnesses of the respondent, namely, Arsenio Gler and Domingo de la Cruz, were assaulted and injured, there is no definite proof that the assaults upon their persons were means employed to obstruct the operation of the business of the respondent. Rather, it could be inferred from their testimony that the motives of the assaults were purely personal. Take the case of Gler. After he was allegedly hit by one of his two passengers, he jumped out of his car, ran and was pursued by his assailants. The car he was driving, when found, exhibited no damage. And as to the case of De la Cruz. This man declared that 'Totong' a person to whom he was indebted, stopped his car, brought him to a toilet nearby and gave him a blow in the

stomach after he informed the said 'Totong' that he had no money with which to pay his debt. Another witness of the respondent testified regarding some damage to the car he was driving. Both of them could not, however, point to the authors of the said acts."

It is the contention of the petitioner that the Court of Industrial Relations erred in applying section 19 of Commonwealth Act No. 103, as amended; in holding that the strike was justified; and in not holding that the strikers either voluntarily ceased to be in the employ of the petitioner or gave just cause for their separation by declaring an unjustified and illegal strike.

The Constitution, in Article XIII, section 6, provided that the State shall afford protection to labor, especially to working women and minors, and shall regulate the relations between landowner and tenant, and between labor and capital in industry and in agriculture, and may provide for compulsory arbitration. In conformity with this constitutional objective, the National Assembly enacted Commonwealth Act No. 103 creating the Court of Industrial Relations which has jurisdiction over the entire Philippines to consider, investigate, decide, and settle all questions, matters, controversies, or disputes arising between, and/or affecting employers and employees or laborers and landlords and tenants or farm-laborers, and regulate the relations between them, subject to the provisions of said Act (Commonwealth Act No. 103, section 1, as amended by Commonwealth Act No. 559) Said court shall take cognizance for purposes of prevention, arbitration, decision, and settlement, of any industrial or agricultural dispute causing or likely to cause a strike or lockout, arising from differences as regards wages, shares or compensation, dismissals, lay-offs, or suspensions of employees or laborers, tenants of farm-laborers, hours of labor, or conditions of tenancy or employment, between employers and employees or laborers and between landlords, and tenants or farm-laborers, provided that the number of employees, laborers or tenants or farm-laborers involved exceeds thirty, and such industrial or agricultural dispute is submitted to the court by the Secretary of Labor, or by any or both of the parties to the controversy, but the court shall, before hearing the dispute and in the course of such hearing, endeavor to reconcile the parties and induce them to settle the dispute by amicable agreement. (Ibid., section 4, as amended by Commonwealth Act No. 559.) It is also provided that 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 said Act, and pending award or decision by the court of such dispute, 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 employers or landlord to accept other employees, tenants or laborers. (Ibid., section 19, as amended by Commonwealth Act No. 559.)

While it is apparent that the policy of the State is, in the first place, to appeal to voluntary arbitration in the settlement of industrial or agricultural disputes and, in the second place, to employ mediation or conciliation for that purpose and, lastly, to recur to the more effective system of official investigation and compulsory arbitration in order to determine specific controversies between labor and capital in industry and in agriculture, it cannot be said that strikes are under no condition or circumstance justified. (National Labor Union, Inc. vs. Court of Industrial Relations & Manila Gas Co., G. R. No. 46598, promulgated October 4, 1939, but cf. National Labor Union Inc. vs. Philippine Match Co., G. R. No. 47107, promulgated June 27, 1940.)

Independently of the right to organization and collective bargaining which, according to some authorities, connotes the right to strike in the event that such a course is deemed advisable by the employees for their mutual aid or protection (see cases on Labor Law by Landis, pp. 632, 633), Commonwealth Act No. 103, for instance,

provides that when any dispute has been submitted to the Court of Industrial Relations for settlement or arbitration, and pending award or decision by the court of such dispute, 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, 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. (Commonwealth Act No. 103, section 19, as amended by Commonwealth Act No. 559.) In other words, the employee, tenant or laborer is inhibited from striking or walking out of his employment only when so enjoined by the Court of Industrial Relations and after a dispute has been submitted thereto and pending award or decision by the court of such dispute. It follows that, as in the present case, the employees or laborers may strike before being ordered not to do so and before an industrial dispute is submitted to the Court of Industrial Relations, subject to the power of the latter, after hearing when public interest so requires or when the dispute cannot, in its opinion, be promptly decided or settled, to order them to return, with the consequence that if the strikers fail to return to work, when so ordered, the court may authorize the employer to accept other employees or laborers. Furthermore, the jurisdiction of the Court of Industrial Relations does not extend to cases where the number of employees, laborers or tenants or farm-laborers involved does not exceed thirty, and it is apparent that in any of these cases the prohibition against a strike pending the determination of the dispute before the Court of Industrial Relations cannot be invoked.

We are here concerned with a definite and well-marked policy of the legislature and not with the extent to which the policy would go. If the legislature should decide to prohibit or abolish strikes absolutely, as it has attempted to do in the past, this is its prerogative, not ours. In this case, we cannot supply what we might conceive to be the defects of the law and interpolate into it what, in our opinion, ought to have been put there by the lawmakers. We can neither make nor change a clear legislative policy.

In cases not falling within the prohibition, the legality or illegality of a strike depends, first, upon the purpose for which it is maintained, and, second, upon the means employed in carrying it on. The fact that the combination is for a lawful purpose does not render it less unlawful where the end is to be attained by the employment of proper means, and a strike for an unlawful purpose may not be carried on by means that otherwise would be legal. The Court of Industrial Relations has recognized the right to strike here and concluded that the same was for justifiable purposes, was conducted in an orderly and peaceful manner, and that considering the public interest and the particular circumstances of the case, and for the sake of justice and equity, the strikers should be reinstated. This conclusion, based upon the facts set forth in the appealed order and hereinabove quoted at length, should not be disturbed. (Section 2, Rule 44, of the Rules of Court, similar to section 2 of the old Rules for the Review of Orders or Judgments of the Court of Industrial Relations; section 14, Commonwealth Act No. 103.)

With reference to the contention that the drivers in question, by declaring a strike, either voluntarily ceased to be employees of the petitioner or gave just cause for their separation, it need only be stated that the declaration of a strike does not amount to a renunciation of the employment relation (*National Labor Relations Board vs. Mackay Radio & Telegraph Company*, 304 U. S. 333; *National Labor Relations Board vs. Fansteel Metallurgical Corporation*, 59 Sup. Ct. 490, 83 L. ed. Adv. Ops. 469, quoted in *National Labor Union, Inc. vs. Court of Industrial Relations et al.*, G. R. No. 46598, October 14, 1939) and that, at any rate, the Court of Industrial Relations is empowered to reinstate the strikers under section 19 of Commonwealth Act No. 103.

The petition for certiorari will, therefore, be, as the same is hereby, denied, with costs against the petitioner. So ordered.

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

Petition denied.

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