

MANILA TRADING SUPPLY CO., PETITIONER, VS. PHILIPPINE LABOR UNION, RESPONDENT.*G.R. No. 47486. November 16, 1940*

Ponente: LAUREL, J.

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This is a petition for a writ of certiorari to review the resolution, dated May 25, 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, and given the title above indicated.

On July 11, 1939, and during the pendency of the industrial dispute mentioned above, the petitioner discharged Andres Dimapiles, a mechanic who had been in its employ since March 11, 1936. It is alleged that on July 1, 1939, the aforesaid employee absented himself from work without permission, and that upon his return to duty on July 3, 1939, he was warned by the petitioner that he would be dropped from the service upon the repetition of the same offense. On July 10, 1939, Andres Dimapiles again absented himself from work without permission, whereupon he was dismissed by the petitioner.

On July 15, 1939, the respondent union herein filed a petition in case No. 49, praying for an order of reinstatement in favor of Andres Dimapiles, alleging that this employee was discharged by the petitioner without just cause and without the express authority of the Court of Industrial Relations. On July 24, 1939, the petitioner filed its answer, praying denial of the petition for reinstatement.

The matter of the reinstatement of Andrea Dimapiles was referred by the Court of Industrial Relations, for investigation, to Mr. Manuel Escudero, an attorney of said court, before whom evidence was submitted by the parties. Attorney Escudero subsequently filed a report of his findings and recommendations with the Court of Industrial Relations, and on August 3, 1939, the Honorable Jose G. Generoso, one of the Judges of said court, promulgated an order the pertinent portion of which is as follows:

"Visto el informe del Letrado de este Tribunal, que investigo los meritos de la peticion asi como las defensas de la recurrida, el Juzgado encuentra: que el obrero Andres Dimapiles, ha estado empleado en la compania como mecanico desde el 11 de marzo de 1936 hasta el 11 de julio de 1939, en que fue despedido; que su despido fue injustificado, puesto que, en los dias 1.º y 10 de julio en que se habia ausentado, se hallaba enfermo y no podia fisicamente entrar en la oficina; que, si bien es cierto, que en muy contadas ocasiones dicho obrero se habia ausentado de la oficina sin permiso de sus jefes, no obstante, tales ausencias no constituyen, a juicio de este Juzgado, motivo suficiente para su despido inmediato sin que se le de oportunidad de explicarse, por que habia estado ausente, maxime si se tiene en cuenta, que durante el periodo de tres anos que ha estado sirviendo a la compania, consta, que no se ha ausentado sin permiso de la recurrida mas de tres veces. La alegacion de la recurrida al efecto de que dicho obrero llegaba siempre tarde, se ausentaba con

mucha frecuencia y es un mal obrero esta desmentida por el mismo exhibito C de la recurrida, que consiste en una recomendacion que el superintendents del taller de segunda mano de la recurrida llamado Lawrence E. Bennett, entrego al mismo obrero el dia 11 de julio de 1939, en que fue despedido, en la cual se certifica: que Andres Dimapiles ha estado al servicio del departamento de segunda mano de la recurrida como mecanico desde el 11 de marzo de 1936 hasta el 11 de julio de 1939; que durante dicho tiempo se le aprecio (por Bennett) como un obrero inteligente y eficiente en el desempeno de sus deberes. Al final de dicha recomendacion se dice lo siguiente: 'I recommend him to any firm who may need his services.'

"Por todo lo expuesto, el Juzgado declara: que el despido del referido obrero el 11 de julio de 1939, ha sido injustificado, y por tanto, ordena a la recurrida la inmediata readmision del mismo."

On August 7, 1939, the petitioner filed with the Court of Industrial Relations a motion for the reconsideration of the above-quoted order of the Honorable Jose G. Generoso, which was denied by said court in its resolution in bane of May 25, 1940.

It is now contended by the petitioner that:

- The lower tribunal deprived petitioner of a "fair and open hearing" when it failed to set the report of Atty. Manuel Escudero for hearing before deciding the Andres Dimapiles incident.
- The lower tribunal, in deciding the Andres Dimapiles incident, erred in finding that the laborer was sick on July 10, 1939, when there was no substantial evidence that could support that finding.
- The lower tribunal erred in preventing the dismissal of Andres Dimapiles when the cause for the latter's discharge was not due or related to the employer's union activities or affiliation.

The first assignment of error involves question of procedure in the trial of this case before the Court of Industrial Relations. In the case of *Ang Tibay vs. The Court of Industrial Relations*, G. R. No. 47496 (decision on motions for reconsideration and new trial), promulgated February 27, 1940, the following fundamental principles affecting procedure in cases brought before the said court were laid down:

"The fact * * * 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 v. 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, 56 S. Ct. 906, 80 Law. ed. 1288.) In the language of this Court in *Edwards vs. McCoy*, 22 Phil., 596, '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 simply 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 principle 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 or conclusion (*City of Manila v. Agustin*, G. R. No. 45844, promulgated November 29, 1937, XXXVI Off. Gaz. 1335), but the evidence must be 'substantial'. (*Washington, Virginia & Maryland Coach Co. v. 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. v. National Labor Relations Board*, 4 Cir., 93 F. 2d 985, 989; *National Labor Relations Board v. Thompson Products*, 6 Cir., 97 F. 2d 13, 15; *Ballston-Stillwater Knitting Co. v. 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 v. Baird*, 194 U. S. 25, 44, 24 S. Ct. 563, 568, 48 Law. ed. 860; *Interstate Commerce Commission v. Louisville & Nashville R. Co.*, 227 U. S. 88, 93, 33 S. Ct. 185, 187, 57 Law. ed. 431; *United States v. Abilene & Southern Ry. Co.*, 265, U. S. 274, 288, 44 S. Ct. 565, 569, 68 Law. ed. 1016; *Tagg Bros. & Moorhead v. 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. v. 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 its 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."

As may be seen, section 10 of Commonwealth Act No. 103 authorizes the Court of Industrial Relations, "for the sake of expediency and depending on the nature and extent of the facts and questions involved," 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 same section, however, provides that "the Court may take into account or set aside the recommendation of any such board or public official in deciding the dispute and making its decision, award or order." The reference of the case to Attorney Manuel Escudero for investigation and report appears to have been made pursuant to this provision of Commonwealth Act No. 103. In the investigation made by Attorney Escudero, it appears that the petitioner was represented by an attorney who was heard and given an opportunity to cross examine and to present his side of the case. The petitioner does not attribute any irregularity committed in this investigation; neither does it impute distortion or misrepresentation of facts. At least no representation to this effect was made to the Court of Industrial Relations when the report of Attorney Escudero was submitted. Under these circumstances, we cannot say that the failure of the Court of Industrial Relations to set Attorney Escudero's report for a hearing deprived the petitioner of a "fair and open hearing." The first assignment of error is, therefore, overruled.

The second assignment of error involves a determination of a question of fact, and it appears that the Court of Industrial Relations has already passed upon the points raised in support thereof in its resolution in bane of May 25, 1940, in which the said court made the following findings of fact:

"No concurrimos con la contencion de la recurrida, en cuanto sostiene que las pruebas no demuestran que el obrero Andres Dimapiles no se presentd a trabajar en los dias 1.º y 10 de julio de 1939 porque estaba enfermo. No concurrimos porque, mientras la base de la argumentacion de la recurrida constituye inferencias y conjeturas, la contención de la recurrente, o sea del obrero Dimapiles, se basa en afirmaciones apoyadas con pruebas.

"Si estuvo o no enfermo Dimapiles el 1.º de julio de 1939, es un hecho al que la recurrida no da mucha importancia, pues, su contencion consiste en que, habiendo otra vez dejado de trabajar dicho obrero el 10 del mencionado mes, sin aviso y no obstante la prevencion de que si se ausentaba sin permiso seria despedido, tal hecho justifica el despido del aludido obrero. De alii que toda la argumentacion de la recurrida gire alrededor de la pretension de que Dimapiles no ha probado que estuvo enfermo en el aludido dia 10 de julio de 1939, y que, por consiguiente, debio haber avisado de su ausencia a dicha compania.

"Para el Tribunal esta satisfactoriamente probado que Dimapiles estuvo enfermo el dia 10 de julio de 1939; que por su enfermedad no pudo, personalmente, avisar a la compania de su ausencia; que no tuvo medios de hacer el aviso por otro conducto; y que el dia 11, o sea el siguiente al de su enfermedad, se presento a trabajar, pero fue despedido."

We cannot disturb the above conclusion of fact reached by the Court of Industrial Relations. The second assignment of error is, therefore, likewise overruled.

It is contended in the third and last assignment of error that the petitioner could discharge Andres Dimapiles for any cause except for his union affiliation or activities. This contention is without merit. It appears that the discharge of Dimapiles was ordered while the main industrial dispute was pending decision before the Court of Industrial Relations. Under the provisions of section 19 of Commonwealth Act No. 103, as amended, the said court is authorized to require his continuation in the service under the last terms and conditions existing before the dispute arose. The purpose of this requirement is to maintain the parties in status quo during the pendency of the dispute in order to safeguard the public interest and to enable the court to settle such dispute effectively. It is to be noted that under the same section, the Court of Industrial Relations is also empowered to enjoin the employee or laborer not to strike or walk out of his employment, or if he has already done so, to require him to forthwith return to it, when public interest so requires.

It is admitted, however, that an employer cannot legally be compelled to continue an employee or laborer in the service when a justifiable cause for his discharge exists, but since under section 19 of Commonwealth Act No. 103 the authority of the Court of Industrial Relations to require his continuance in the service is incidental to the pendency of an industrial dispute before it, it necessarily follows that the said court has the power to determine whether such cause exists. In the instant case, the Court of Industrial Relations having reached the conclusion that the dismissal of Andres Dimapiles is groundless and unjustified, the doctrine in *Manila Trading & Supply Co. vs. Zulueta et al.*, G. R. No. 46853, promulgated January 30, 1940, is not applicable. Upon the other hand, and as was observed in the case of *Ang Tibay vs. The Court of Industrial Relations*, G. R. No. 46496, promulgated May 29, 1939, "the policy of laissez faire has to some extent given way to the assumption by the Government of the right of intervention even in contractual relations affected with public interest."

The petition for writ of certiorari is denied, and the orders complained against, affirmed, with costs against the petitioner. So ordered.

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

Writ denied.

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