

CONTINENTAL CEMENT CORPORATION LABOR UNION (NLU), PETITIONER, VS. CONTINENTAL CEMENT CORPORATION AND THE DEPUTY MINISTER OF LABOR, RESPONDENTS.

G.R. No. 51544. August 30, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This petition addresses the question of dismissal from the service of the officers and the suspension of some members of petitioner union by the public respondent and the National Labor Relations Commission (NLRC).

On April 21, 1975, the NLRC issued an arbitration award in NLRC Cases No. 2406 and No. 3053 resolving certain demands of the petitioner respecting the working terms and conditions that should be observed in the establishment of private respondent. However, due to disagreement on the interpretation of the provisions of the award concerning vacation, sick leaves and standardization of wages, compliance therewith was delayed. In order to compel private respondent to immediately implement the award, petitioner staged a strike on October 25, 1975. It was, however, lifted after the private respondent agreed to pay the disputed employees' leaves during the period July 1, 1974 to June 30, 1975 in three installments, that is, 50% on December 20, 1975, 25% on February 25, 1976 and 25% on March 15, 1976.

Meanwhile, private respondent sought clarification from the labor arbiter on whether a group of 91 workers who were unable to complete 300 days of work within a 12-month period was entitled to proportionate payment of vacation and sick leave benefits. On March 19, 1976, the labor arbiter ruled that the award required private respondent to make proportionate payments in favor of the workers in question. This ruling was appealed by private respondent but on April 7, 1976 petitioner filed a notice of strike against private respondent for its refusal to make the proportionate payments mentioned. Petitioner carried out its threatened strike on May 16, 1976. The strike was settled on May 22, 1976 with private respondent agreeing inter alia, to pay the 91 workers concerned P25,000.00 for "humanitarian reasons." Private respondent, however, reserved the right to seek clarification of its obligations under the NLRC award. Payment was made on May 25, 1976.

The obligation of private respondent to pay the employees their vacation and sick leaves for the period July 1, 1975 to June 30, 1976 developed into a new issue between the parties. Prior to the payment becoming due, private respondent negotiated with petitioner for a staggered form of payment as before due to its financial difficulties and planned shutdown of the plant in July. Petitioner at first insisted that its members be paid full; however, it subsequently agreed to installment payments but gave warning on July 11, 1976, a Sunday, to the private respondent that payment of 50% of the benefits should be made not later than July 12, 1976 and the remaining 50%, not later than the end of the month. Private respondent requested an extension up to July 13, 1976 within which to consider the counter-proposal but this was rejected by petitioner.

Petitioner staged a strike in the early morning of July 12, 1976, picketing the entrance of the premises of private respondent. Among the officers and members of petitioner who were identified on the picket line were Rosauero

Ancheta, Lauro Bartolome, Abundio Cruz, Edwin Hugo, Manuel Sobrenilla, Antonio Mendoza, Alfredo Urtula, Lorenzo Hormadal, Nicolas Sobrenilla, Dioscoro Sergio, Velasco Reyes, Fortunato Mendoza, Floro Villano, Laura Francisco, Salva Nelson, Antonio Cruz, Augusto Lopez and Francisco Sarmiento. Other workers at the roadblocks were not positively identified.

On July 13, 1976, the Minister of Labor issued an order thru the Director of the Bureau of Labor Relations, directing the striking workers to resume work under the terms and conditions prevailing prior to the work stoppage.[1] The order was served on the parties in the afternoon of the same date.

Nevertheless, on July 14, 1976, only 11 out of the total work force of about 120 workers in one shift reported for work and were admitted by the company. On July 15, 1976, petitioner filed a motion for reconsideration of the return-to-work order or its suspension pending compliance by private respondent with the 1975 NLRC award in favor of petitioner. Picketing was resumed despite the presence of military personnel who were called to assist in the implementation of the return-to-work order.

On July 23, 1976, the Minister of Labor certified the dispute between the parties to the NLRC for compulsory arbitration in NLRC Certified Case No. 039. Under the Labor Code, this certification had the effect of automatically enjoining any strike by the Union or lockout by the private respondent. Nonetheless, some 110 striking workers did not return to work. Consequently, on July 26, 1976, private respondent filed with the Department of Labor reports on the dismissal of those who failed to comply with the return-to-work order with copies of the reports furnished workers affected.

On July 29, 1976, the president of petitioner and 7 other officers requested admission to work but were informed that their employment had been terminated by the company.

After due hearing, on March 10, 1977, the NLRC rendered judgment, the dispositive portion of which reads as follows:

“WHEREFORE, this Commission hereby orders:

1. That the Union officers, together with its Board of Directors, namely: Rosauro Ancheta, Lauro Bartolome, Alejandro Bernabe, Ireneo Bernabe, Romulo Buluran, Fortunato Mendoza, Rodolfo L. Santiago, Guillermo Roque, Dioscoro Sergio, Manuel Sobrenilla, Sergio Panel, Antonio Mendoza, Isaias Mendoza, Abundio Cruz, Edwin Hugo and Aquilino Sarmiento, be considered, as they are hereby considered, separated from the service of the Company, and from their positions as officers of the Union, as of 12 July 1976;
2. That the Union members who participated in the strike be considered, as they are hereby considered, under suspension, by way of penalty, for the duration of their absence from work in the Company as a consequence of their strike;
3. That the Union members referred to in the immediately preceding paragraph return to their work in the Company, and that the latter take them back, at the same terms and conditions of employment obtaining before 12 July 1976, within five (5) days from receipt of this Decision;
4. That the Company pay within ten (10) days from receipt of this Decision the vacation and sick leave benefits of qualified employees for the period from 1 July 1975 to 30 June 1976, as well as the 13th month pay and increased minimum wages, unless the Company has been duly exempted from the payment of the same;
5. That the Company comply immediately and fully with the terms and conditions of the Award of Voluntary Arbitrator Francisco Fuentes dated 12 September 1974 (NLRC Case Nos. 2406 and 3053);
6. That the Union and Company incorporate in their collective bargaining agreement all includible terms and conditions in the Award referred to in paragraph 5 of this dispositive part; and

7. That, it appearing that the Union is officially affiliated with the National Labor Union (NLU) and since the officers of the Union are, by virtue hereof, no longer holding their positions as such, the NLU temporarily handle the affairs of the Union, in a trusteeship capacity, until the Union shall have reorganized in accordance with its Constitution and By-Laws, or in the absence of applicable internal rules, in accordance with the will of the majority of its members, but not more than three (3) months from the promulgation of this Decision.”[2]

On July 22, 1977, the petitioner appealed the above decision of the NLRC to the Minister of Labor but the latter affirmed it on March 6, 1979.[3] A motion for reconsideration filed by the Union was denied by the Minister of Labor on August 1, 1979.[4]

Hence, this special civil action for certiorari, wherein the issues raised are (1) whether or not the strike staged by petitioner on June 12, 1976 until its lifting was illegal; and (2) in the affirmative, whether or not the penalties meted out by the NLRC to the Union officers and the members are warranted by the circumstances and the law.

Presidential Decree No. 823, as amended, provides:

“Sec. 1. It is the policy of the State to encourage trade unionism and free collective bargaining within the framework of compulsory and voluntary arbitration. Therefore, all forms of strikes, picketing and lockouts are hereby strictly prohibited in vital industries x x x.”

Letter of Instruction No. 368 of the President provides:

“For the guidance of workers and employers, some of whom have been led into filing notices of strikes and lockouts even in vital industries, you are hereby instructed to consider the following as vital industries and companies or firms under PD 823 as amended:

xx xx xx

2. Companies or firms engaged in the manufacture or processing of the following essential commodities:

xx xx xx

B. Cement.”

Private respondent was engaged in the manufacture of cement which is no doubt a vital industry in which a strike or lockout is prohibited under the foregoing aforestated decree. And even assuming that private respondent was not engaged in a vital industry, the strike that was staged by petitioner was nonetheless illegal. It was not in connection with any unresolved economic issue in collective bargaining which is the only ground for which a lawful strike can be held.

Section 7 of the Rules and Regulations implementing Presidential Decree No. 823, as amended, provides:

“Section 7. Requirements for strikes and lockouts. - Strikes and lockouts may be declared only upon compliance with the following requirements:

(a) Ground for strike - A strike may be declared by a legitimate labor organization which is the recognized bargaining agent of the appropriate bargaining unit in connection with unresolved economic issues in collective bargaining in non-vital industries.

(b) Ground for lockout - A lockout may be declared only by an employer in connection with unresolved economic issues in collective bargaining in non-vital industries.

xxx xxx xxx

(d) Unauthorized strikes or lockouts - Notices of strikes or lockouts involving industries, establishments or issues not covered or authorized under paragraphs (a) and (b) shall be dismissed, and the party filing the notice

of strike or lockout shall be advised thereof.”

The issue between the petitioner and the private respondent at the time of the strike concerned merely the implementation of an arbitration award of the NLRC. The petitioner had a remedy by applying for a writ of execution to enforce that award. Its resort to a strike was without lawful basis.

Moreover, under Section 1 of Presidential Decree No. 823, there is a requirement of notice, as follows:

“However, any legitimate labor union may strike and any employer may lockout in establishments not covered by General Order No. 5 only on grounds of unresolved economic issues in collective bargaining, in which case the union or the employer shall file a notice with the Bureau of Labor Relations at least 30 days before the intended strike or lockout. x x x”

Petitioner claims that it filed a notice of strike on April 7, 1976. That notice was in connection with a dispute that had been settled by the Memorandum Agreement between the parties dated May 22, 1976. A notice of strike is intended to enable the Bureau of Labor Relations to try to settle the dispute amicably. The strike on July 12, 1976 denied the Bureau this opportunity.

Petitioner invokes the right to strike as a measure of self-defense as it had been driven to the wall by the unjust refusal of private respondent to comply with the NLRC award.

The non-compliance by the private respondent with the said award did not threaten the existence of petitioner or that of its members. The dispute did not concern the right of the Union to organize nor the employees’ right to work. It merely involved the non-payment of the vacation and sick leaves of the employees for the past years’ services.

Furthermore, petitioner could have applied with the Bureau of Labor Relations for a writ of execution to enforce the award that was already final and executory.

As to the second issue, petitioner assails as too harsh the suspension meted out by the NLRC to its members.

The strikers in question did not only violate the no-strike policy of the state in regard to vital industries; instead, they repeatedly defied the orders of the Director of Labor Relations and the Minister of Labor for them to return to work. Their dismissal was recommended by the labor arbiter. However, out of compassion, the NLRC and the Minister of Labor only suspended them.

Petitioner then contends that the separation from work of the officers of the union is quite severe. The officers had the duty to guide their members to respect the law. Instead, they urged them to violate the law and defy the duly constituted authorities. Their responsibility is greater than that of the members. Their dismissal from the service is a just penalty for their unlawful acts.

It is within the power of the NLRC to order the removal of the officers of petitioner. This is provided for in the labor law.

“Art. 242.[5] Rights and conditions of membership in a labor organization.- The following are the rights and conditions of membership in a labor organization:

xx xx xx

(p) It shall be the duty of any labor organization and its officers to inform its members on provisions of the constitution and by-laws, collective bargaining agreement, the prevailing labor relations system and all their rights and obligations under existing labor laws. For this purpose, registered labor organizations may assess reasonable dues to finance labor relations seminars and other labor education activities.

Any violation of the above rights and conditions of membership shall be a ground for cancellation of union registration or expulsion of an officer from office, which ever is appropriate. At least 30 per cent of all the members of a union or any member or members specifically concerned may report such violation to the Bureau. The Bureau shall have the power to hear and decide any reported violation and to mete out the appropriate penalty.”

The officers of petitioner misinformed the members and led them into staging an illegal strike. If the NLRC is to attain the objective of the Labor Code to ensure a stable but dynamic and just industrial peace[6] the removal of undesirable labor leaders must be effected.

WHEREFORE, the petition is DISMISSED as it has not been shown that the public respondent committed any grave abuse of discretion in rendering the orders dated March 6, 1979 and August 1, 1979 affirming the decision of the NLRC dated March 10, 1977.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Annex A to the Petition. P. 19, Rollo.

[2] Annex F to the Petition; pages 38-40, Rollo.

[3] Annex H to the Petition. PP. 135-136, Rollo.

[4] Annex J to the Petition. pp. 141-142, Rollo.

[5] Renumbered as Art. 241 of the Labor Code by virtue of Executive Order No. 111.

[6] Article 211 (f), Labor Code.

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