

**ROSARIO T. MAMERTO, FELY DELA CRUZ, HERMAN VILLALOBOS,
BAUDILLO BOTONA, JUANITO DACANAY, EDDIE ESTEBAN, GARRY
BALDIMOR, GORGONIO JAVIER, CRISOSTOMO SOBERRANO,
PATRICIO BASALLO, ...**

G.R. No. 53060. November 15, 1982

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Petition for certiorari to annul and set aside the Order[1] of respondent Director Francisco L. Estrella, dated May 18, 1979 issued in R4-STF-3-1629-79 entitled "Rosario T. Mamerto, et al., Complainants, versus, Lucky Garments Mfg. Co., Respondent" which dismissed petitioners' complaint against private respondent for illegal dismissal, allegedly due to union activities amounting to unfair labor practice, and granted private respondent's application for clearance to terminate the services of herein petitioners, as well as the Order[2] dated February 15, 1980, issued by the then Deputy Minister of Labor Amado G. Inciong affirming the aforementioned order, petitioners claiming that said orders were issued by the public respondents with grave abuse of discretion.

Quoted hereunder is the questioned order of respondent Estrella:

"ORDER"

"This is a complaint for illegal dismissal.

"Of the twenty eight (28) complainants, sixteen (16) are regular employees, eight (8) are apprentices, and four (4) are domestic helpers.

"Both parties were required to submit their respective position paper. However, on the scheduled deadline, only the respondent complied.

"The record disclosed that twelve (12) complainants who are regular employees in a concerted move absented themselves without notice from March 7, to March 13, 1979 thus slowing down the production in the respondent firm. They were asked to explain but they refused to accept the memo issued to them. The respondent then filed an application for clearance to dismiss the said complainants for participating in an illegal sit-down-strike. During the hearing, these complainants admitted their absence on such dates.

"In the case of complainant Gorgonio Javier, dismissal was due to his repeated violations of company rules and his refusal to explain his wrong doings.

"Complainants J. Dacanay, C. Cuaresma, P. Basallo were on Absent Without Official Leave (AWOL). These workers lived in the respondent's compound and for unknown reasons left the compound last March 6, 1979 and no longer reported for work since then.

"Eight (8) of the reported complainants who were apprentices were dismissed for failure to meet the respondent's training standards.

"With regards to Messrs. E. Esteban, Garry Baldimer, Adriano Cuaresma and Jaime Soberano, the record reveals that they are not employees of respondent but household workers in the employ of a certain Mrs. Rosita Kuo.

"WHEREFORE, premises considered, let this case be as it is hereby dismissed for lack of merit. Accordingly, the clearance to dismiss applied for is hereby granted.

"SO ORDERED."

On appeal at the instance of petitioners, the aforequoted order was affirmed by respondent Inciong in his order, also questioned in this petition, pertinent portions of which read as follows:

"The case arose from the application for clearance filed by respondent to terminate the services of complainants for reasons ranging from violation of company rules and regulations to active participation in a sit-down strike as well as from the complaints, treated as opposition, against respondent for illegal dismissal due to union activities amounting to unfair labor practice.

"At the outset, a clarification on the nature of complainants' employment with respondent must be made there being contradicting positions on the matter. Complainants, Rosario Mamerto, Felisa dela Cruz, Herman Villalobos, Botona Baudillo, Rolando Mamerto, Dominador Maca and Antonio Bartolay are apprentices. The nature of their employment are reflected in duly approved apprenticeship agreement submitted in evidence in the case. Eddie Esteban, Gary Baldimor, Adriano Cuaresma and Jaime Soberano are household helpers as established by positive testimonies in affidavits of witnesses. There being no evidence showing a different nature of their employment they ought to be considered as such. The rest of the complainants are regular employees of respondent.

"This review will take up separately the cases of Crisostomo Cuaresma, Patricio Basilio and Juanito Dacanay who, as record will show, absented from their work without leave and since March 6, 1979 have not reported for work neither have they returned to the company premises where they all used to live. Gorgonio Javier, on the other hand, was terminated for repeated negligence in the performance of his duties as dyeing operator.

"We shall now take up the main issue and determine whether respondent committed unfair labor practice in dismissing the rest of the complainants due to their union activities or that the latters' termination from work was called for and for legal causes.

"Record shows that the production output in respondent company declined starting in the last week of February 1979. There was a marked decrease on March 7, 1979, the finished products were of poor quality and many workers were noted absent. On March 9, and 10, there was complete paralyzation of production. On March 11, work resumed but at very much decreased output and low efficiency. Such situation was brought about by a concerted activity of the workers amounting to economic sabotage and illegal strike in violation of PD 823. And complainants were active participants to the violations.

"The use by complainants of the Ramo incident (wherein private respondent's security guard allegedly inflicted bodily injuries to one Salvador Ramo, an employee of respondent firm) as an excuse for their absence from work is simply unavailing. There is no credible record or report of the incident, much less a showing that it has any connection with the prevailing situation in the worksite at the time. Complainants have been assured of ample protection as there were military and peace officers assigned in the work area to safeguard everyone from any form of harrassment and physical harm.

"Lastly, complainants raised an observation and as an issue: 'that individual appellants had never been required to submit position paper in this case during the entire period of conciliation hearing, and, not in any instance, nor their representative and National President. . . .' We have on record the minutes of the proceedings on April 4, 1979, which is herein below reproduced in part:

"Complainants to submit position paper supported by affidavits and documentary evidence . . .".

Instead of complying with the aforequoted manifestation, complainants filed a motion requesting to have the case certified for compulsory arbitration. Clearly, complainants defaulted from submitting their evidence and position papers as promised. Because of such omission they cannot now question the action of the Regional Director when the latter proceeded to resolve the case without their position paper. In the overall, complainants' excuses did not credibly overcome the evidence clearly establishing their infractions and concerted action. Accordingly, the contested Order must be upheld.

"WHEREFORE, the Order dated May 18, 1979 is hereby affirmed.

"In view of the offer of respondent during the hearing below, respondent is likewise ordered to pay all complainants who are regular employees financial assistance equivalent to one-half month for every year of service.

"SO ORDERED."

Not satisfied with the aforequoted order, petitioners took the present recourse. Asserting denial of their right to due process, public respondents allegedly erred in denying their motion for the certification of the issues in this case for compulsory arbitration. This contention is devoid of merit.

The record shows that petitioners were required to submit their position paper to be supported by affidavits and documentary evidence, during the conciliation stage of the proceedings, but they failed to do so and instead, they filed a motion to certify the issues for compulsory arbitration,[3] which was denied. Public respondents, particularly respondent Estrella who apparently was not impressed of petitioners' stand that the case involves intricate questions of law and of facts, could not be faulted in proceeding to decide the case without petitioners' position paper. It behooved the petitioners to file the necessary position paper and other evidence precisely to show the merit of their stand. They could not simply avoid the effects of their omission by the bare allegation that they "had never been required to submit any," imputing that the minutes of conciliation hearing is a mere fabrication "as they do not remember and their representative as well having signed minutes of conciliation hearing that they promised to submit position paper." This claim not only taxes one's credulity, but is also purely self-serving, not supported by any evidence on record and cannot prevail over the presumption of regularity.

In other words, while the action of respondent Estrella may have been summary, it cannot and does not constitute a denial of due process. It is undeniable that the petitioners were given a chance to be heard. Hearings were conducted wherein the parties were duly represented by their respective counsel and wherein the petitioners were granted every opportunity to present their evidence. In such hearings, petitioners, however, instead of presenting evidence, opted to merely file a motion to certify the issues for compulsory arbitration. After the case was adversely decided, petitioners appealed. Under such circumstances, clear and indubitable, there can be no occasion to impute denial of their constitutional right to due process since petitioners were given sufficient opportunity to be heard.[4]

In any event, We agree with the observation of the Solicitor General that the nature of this case does not require its submission to compulsory arbitration as no intricate question of fact or law is involved, the issue in dispute being merely and simply termination.

The question of whether petitioners were discharged because of their union activities is essentially a question of fact, as to which the findings of public respondents are conclusive and binding upon this Court if supported by substantial evidence considering the record as a whole.[5] Examining the evidence on hand on this matter, We find the finding of dismissal for cause to be duly bolstered by the record. Petitioners' failure to show that their

dismissal was wrongful defeats their allegation of illegal dismissal.[6] Hence, public respondents did not commit any grave abuse of discretion in dismissing petitioners' complaint for illegal dismissal.

There is, likewise, no merit on the claim of petitioners that public respondents erred in ruling that of the twenty eight (28) complainants, eight (8) are apprentices and four (4) are domestic helpers. This is a finding of fact which may not now be disturbed.[7] Besides, the questioned orders correctly cited the documentary evidence on record to support that factual finding.

WHEREFORE, the petition is hereby dismissed without pronouncement as to costs.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion Jr., Guerrero, Abad Santos and Escolin, JJ., concur.

[1] Annex "K" Petition, p. 66, Rollo.

[2] Annex "Q" Petition, p. 106, Id.

[3] Annex "J" Petition, p. 65 Rollo.

[4] Maglasang v. Ople, 63 SCRA 508; Antipolo Highway Lines Inc. v. Inciong, 64 SCRA 441; St. Michael Security Service v. Inciong, 85 SCRA 207.

[5] Genconsu Free Workers Union v. Inciong, 91 SCRA 311; Federacion Obrera v. Noriel, 72 SCRA 24; Pan-Philippine Life Insurance Corporation v. NLRC, G.R. No. 53721, June 29, 1982.

[6] William Lines, Inc. v. Lopez, 96 SCRA 593.

[7] Central Textile Mills, Inc. v. NLRC and Corpuz, 90 SCRA 9; National Organization of Trade Unions v. Secretary of Labor, 90 SCRA 463; and case cited therein.

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