

SAN MIGUEL CORPORATION EMPLOYEES UNION AND SILVINO P. TIBI AND JUAN ABUNDO, PETITIONERS, VS. HON. CARMELO C. NORIEL, IN HIS CAPACITY AS DIRECTOR, BUREAU OF LABOR RELATIONS AND R...

G.R. No. 53918. February 24, 1981

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari filed by the San Miguel Corporation Employees Union, Silvino P. Tibi and Juan Abundo against respondents Director Carmelo C. Noriel of the Bureau of Labor Relations and Raymundo Hipolito, Jr. seeking to set aside the respondent director's orders of March 12, 1980, April 15, 1980 and May 7, 1980 directing the holding of a general election of union officers of the SMC Employees Union after April 22, 1980 and further restraining both management of the San Miguel Corporation, the employer, and the union from collecting an increase of P8.00 in the union dues of the members until the said increase shall have been approved by the general membership through secret ballot.

The background facts are substantially well related in respondent director's comment dated July 18, 1980, as follows:

"This case originated when a petition for special election was filed by Mr. Raymundo Hipolito, Jr., a union member and employee of the San Miguel Corporation (private respondent herein) on June 29, 1979 against acting union president Silvino Tibi and union secretary Juan Abundo and the SMC Employees Union. It was alleged that said acting union president and secretary refused to cause the holding of special election for the purpose of filling up the vacant positions of union president, treasurer and plant directors in the Glass Plant, General Services Division and Beata Plant, and for causing the increase of union dues from P8.00 to P16.00 without the consent of the union members, both acts allegedly in violation of the unions constitution and by-laws. Thus, Mr. Hipolito prayed that an order be issued: a) calling for the immediate holding of special election to fill up the vacant positions; b) reversion of the union dues from P16.00 to P8.00 until the new rate of P16.00 union dues shall have been ratified by the union members; c) the expulsion of said respondent-officers from the union after declaring them guilty of having violated the union's constitution and by-laws.

"On August 6, 1979, respondents Silvino Tibi, et. al. (petitioners herein) filed their answer-position paper contending: a) that there existed no vacancy for the position of president because the incumbent president, Mr. Roman F. Fernandez, who left for the United States sometime in May, 1978 did not file his resignation as union president neither did he file his resignation as employee of the San Miguel Corporation hence, his position cannot be considered vacant his absence being temporary in nature, and therefore, a special election is not warranted; b) that the position of treasurer cannot be considered vacant because the incumbent treasurer's

resignation was rejected and disapproved by the union's Board of Directors, although he was relieved of his duties as such; c) that the positions of plant directors in the General Service and in the Glass Factory are the only ones vacant hence, the election should be limited only to the positions of the Board of Directors; d) that the calling of special election rests solely upon the discretion of the union's Board of Directors; and e) that respondent did not violate Art. 288 (now Art. 242 (d)) of the Labor Code (P.D. 442) in increasing the union dues since the union members have already given individual written authorizations authorizing check-off of the additional union dues.

"On August 13, 1979, petitioner Raymundo Hipolito, Jr. (private respondent herein) filed his position paper maintaining that the new assessment of P8.00 collected monthly from the union members is illegal, invoking Article 288 (now Art. 242 (d)) of the New Labor Code, for not having been approved by the general membership. Neither is there a written resolution passed by a majority of the general membership authorizing the collection of the new assessment.

"Petitioner also contended that the incumbent officers and directors were overstaying in office since the last election was held on April 22, 1977, their term of office expired on April 22, 1979 according to Article VII, Section 1 and Article XII, Section 1 and Article VI, Section 1, of the union constitution and by-laws, which provides that the officers of the union shall hold office for a term of two (2) years. Thereafter, petitioner maintained that respondents have no more authority and power to represent the union members as well as to run the affairs of the union much less to increase the union dues from P8.00 to P16.00.

"In the supplemental position paper of respondents Silvino Tibi, et al. (petitioners herein) filed on August 21, 1979, it was further argued that respondent did not overstay in office, invoking Article 1, Section VI and Article VII, Section 1 of the union's constitution and by-laws providing for the hold-over provisions, which expressly provides that the tenure of office for the union's officers and Board of Directors shall be for a period of two (2) years "or until their successors are duly elected or qualified". Hence, respondent maintained that they are legally holding their office and, not overstaying. They also invoked Article 242 (c) of the Labor Code which provides that "members shall elect their officers by secret ballot at intervals of not more than three (3) years. They further claimed that it has been the practice of the respondent union to conduct election of officers once every three years, elections having been held in 1971 and 1974.

"Petitioner Hipolito, (private respondent herein) on September 6, 1979, filed a reply to supplemental position paper of respondents wherein he further claimed that Article XII, Section 1 of the union's constitution and by-laws, which provides that election shall be held on the second Tuesday of December every two (2) years was violated, when the election was held on April 22, 1977; therefore, he maintains that respondents term of office expired last April 22, 1979. Such being the case, petitioner contended that a general election is long overdue.

"The Med-Arbiter in disposing the issues in this case, on September 19, 1979 ruled, a) that the holding of a special election is not warranted inasmuch as there are no vacant positions; b) that the calling of special election rests entirely upon the discretion of the Board of Directors; c) that the Board of Directors, by way of a duly approved resolution, is authorized by the union's constitution and by-laws to assess additional union dues to the union members and; d) that a general election of officers should be held not later than April, 1980.

"Dissatisfied with the Med-Arbiter's order of September 19, 1979, petitioner Raymundo Hipolito (private respondent herein) on October 8, 1979 appealed to respondent Director of the Bureau of Labor Relations, raising the same issues and arguments previously brought before the Med-Arbiter below. Likewise, respondents (petitioner herein) in his Opposition to the Motion for Reconsideration/Appeal filed on October 31, 1979, reiterated the same grounds in their position paper filed before the Med-Arbiter below.

"Public respondent cognizance of the issues raised on appeal on March 12, 1980, issued a resolution, a) dismissing the appeal; b) ordering for the immediate holding of general election of officers after the expiration of the officers' term of office on April 22, 1980; and c) restraining the union and management from collecting the additional union dues of P8.00 and from remitting to the union the additional amounts already collected effective immediately until the general membership by secret ballot has resolved the issue of whether or not they favor the said increase.

"In the said resolution, the undersigned respondent justified the calling of general election of officers when he found out that there were no vacant positions (of union president and treasurer) to speak of to warrant the calling of special election, since the absence of the president and treasurer of the union created only a temporary hiatus, which authorized the incumbent vice-president and the incumbent assistant-treasurer to assume the office of president and treasurer, respectively, until the termination of their unexpired terms of office which were to expire on April 22, 1980. The order of general election was further justified considering that the last general election of officers was held on April 22, 1977. Moreover, in a long line of BLR decisions, it has been consistently ruled that upon the effectivity of the Labor Code which provides that election of officers shall be held at intervals of not more than three (3) years which explicitly means that election of union officers shall be held once every three (3) years as interpreted by the Implementing Rules of the Labor Code.

"On the issue of additional increase of P8.00, the undersigned respondent finding that there is serious doubt as to the propriety of the collection of the increase of union dues decided that said increase being a question of major policy, it should be determined by the general membership through secret ballot. Hence, the act of the Board of Directors in implementing the increase without submitting the issue to the general membership constitutes an infringement of the rights of the entire membership.

"Dissatisfied with the above resolution, respondents-appellees (petitioners herein) filed a Motion for Reconsideration on March 26, 1980 on the grounds: a) that a general election of union officers was already held and conducted on December 11, 1979; b) that the order declaring the additional increase of P8.00 union dues is illegal as contrary to the evidence; c) that the orders are inconsistent with the decision of March 12, 1980.

"In our resolution dated April 15, 1980, the motion for reconsideration was denied reiterating our decision of March 12, 1980.

"On April 15, 1980, petitioners Hipolito, et. al., (private respondents herein) filed with this Bureau a Motion for Execution alleging, that respondents (petitioners herein) further cause injury to the general membership as well as to the non-members by continuing to deduct and collect illegally and unlawfully the additional union dues of P8.00 hence, praying for the execution of the order dated March 12, 1980.

"Again, respondents-appellees (petitioners herein) dissatisfied with the order of April 15, 1980, filed a second motion for reconsideration contending, that this Office failed to consider the general election that was held on December 11, 1979 which was held in accordance with the union's constitution and by-laws and in compliance with the Med-Arbiter's order dated September 19, 1979; that in the said election, petitioners (private respondent herein) actively participated by fielding all his candidates including himself as president; that the election is binding to all the parties and such election renders moot and academic the purpose in the assailed resolution; and that a new check-off authority or another individual authorization is not needed to collect the increase in union dues for when the union members applied for membership in the union, the check-off authorization they first issued also applies to future deductions.

"In our Order dated May 7, 1980, respondents-appellees' (petitioners herein) second motion for reconsideration was denied, notwithstanding the election results and the election protest filed by petitioners (private respondents herein) with this Bureau on December 14, 1979.

"In the said order, it was declared that the general election that was held on December 11, 1979 was null and void, because it was held and conducted during the pendency of the appeal which automatically stays the execution of the Med-Arbiter's order. Moreover, it was held that the election which was conducted in accordance with the union's constitution and by-laws is in contravention with the provision of the Labor Code and its Implementing Rules which provides that election of officers should be held once every three (3) years. Furthermore, taking into consideration the allegations of irregularities in the election protest of petitioners (private respondents herein) despite the presence of this Ministry's representative, the need to hold a general elections after the expiration of the officers term of office on April 22, 1980 was even more warranted.

"As was held in the previous orders, the increase in union dues being of doubtful validity, any further collection and deduction thereof from the general membership is illegal hence, both management and union were enjoined from further collecting the additional union dues of P8.00. Furthermore, it was held that all the union dues (authorized and unauthorized) to be collected and already collected shall be remitted to the union only after the proclamation of the winners, in the forthcoming election.

"Not contented with the above order, respondents (petitioners herein) filed the instant petition for certiorari and prohibition before this Honorable Court." (Pp. 167-170, Record.)

We have required respondents and even the Solicitor General to file their comments, which they have done, and considering that the papers now before Us sufficiently discuss all the issues among the parties, We have resolved to deem the petition as given due course and the comments of the respondents as their answers, and will now proceed to decide the case.

The main issues We are called to pass upon revolve around the validity of the elections held on December 11, 1979 and the increase of the monthly dues of the members from P8.00 to P16.00.

It is not disputed that the last election held previous to the one here in question was held on April 22, 1977. Thereat among other officers, Ramon F. Fernandez was elected president, herein petitioner Tibi, vice-president, and Antonio Evangelista, treasurer. However, shortly thereafter, more specifically, in May 1978, Fernandez left for the United States and has not been heard of since then, albeit he has not resigned neither from the company nor from the union. On the other hand, Evangelista resigned, and although his resignation was unanimously

rejected, he was nonetheless relieved of his duties as treasurer pending compliance with certain requirements. Believing that such indefinite absence of Fernandez entitled him to act as president, Tibi, the vice-president assumed the office. Sometime after such assumption, the Board of Directors unanimously approved an increase of the union monthly dues of the members from P8.00 to P16.00, which increase was implemented with the corresponding check-off.

As could be expected, on June 29, 1979 respondent Hipolito Jr. filed a petition with the Ministry of Labor accusing Tibi and Abundo of refusing to call an election for the filling of the vacant positions of president treasurer and plant director in the Glass Plant, General Services Division and Beata Plant and of illegally increasing the union dues, and prayed for (a) calling for the immediate holding of a special election to fill up the positions already mentioned and (b) reversion of union dues to P8.00, until the increase shall have been approved by the general membership, and praying for the removal of petitioners from their union positions.

As may be noted from the aforequoted comment of respondent Director, the first point We have to tackle is the validity of the elections held on December 11, 1979. To be sure, the Director held the same uncalled for, if only because it was held while the appeal from the Med-arbiter's decision was still pending before him. But such proposition may be considered as already of little importance, considering that even as far as respondent Hipolito Jr. was concerned, the earlier the elections were held the better. Indeed, he himself was insisting that since the by-laws of the union provide for a two-year term, and that Tibi, even if he had properly assumed the office of president, his term had already expired on April 22, 1979. And as a matter of fact, said respondent never questioned the legality of the elections called on December 11, 1979 and even took part therein, heading a complete ticket of his own, which, however, won only one slot. Importantly, it is uncontroverted that the elections were orderly clean, and peaceful. They were held after compliance with all legal and reglementary requirements of notice, etc. and, what is more, supervised by representatives of the Ministry of Labor.

In the light of the foregoing, the first question before Us is whether or not said elections should be declared invalid. The respondent Director is of the affirmative view not only because it was held while the appeal to him was pending, but more basically, because, the standing policy of the Ministry is to allow only three-year terms, even if the provisions of the concerned union's by-laws should provide otherwise. In other words, as far as the Ministry is concerned, the terms of union officers must always be three years and the union by-laws may not provide otherwise.

To be sure, the Solicitor General disagrees with such view which indeed, appears to be at variance with the principle of union autonomy, and there is hardly any provision in the Labor Code to such effect. But, since We believe this decision can be based on other more decisive considerations, it is not indispensable to pass squarely on that point here. Parenthetically, private respondent Hipolito Jr. has lately conveniently changed his original two-year-term posture and has taken sides with his co-respondent Director's position.

It will be remembered that the Med-arbiter's decision enjoined the holding of "a general election for all officers not later than April 1980", which in a way would coincide with the terms that the respondent Director ruled to be the legal one, even if apparently, the Med-arbiter did not have exactly his superior's point of view in mind, considering the allowance he gave of "not later than April 1980". If there was an appeal, Hipolito Jr. was not questioning the legality of the election as such. Everything was done almost as he had asked and wanted. In one word, everybody took part in the exercise of what they were convinced was their right, not only under the order, but more so, under the by-laws.[1] Otherwise stated, everyone acted in good faith, with the consequence that it hardly lies in the lips of private respondent Hipolito Jr. to say now that what happened should not have been done. By the principle of estoppel, he is bound by said elections.

But even as We hold, for the reasons just discussed, that things better be left as they are, specially if equity is to be considered, We also hold that it is best that there should be uniformity in the rules of the Ministry regarding the matter, and if the Ministry believes it is in line with the inherent principles of unionism for the government to ordain all unions to follow such a practice, then the SMC Employees Union should hereafter follow suit, hence, after the termination of the term, for which they had been elected, of petitioner Tibi and the other officers on December 10, 1981, subsequent officers should already be elected for three-year terms and its by-laws should correspondingly be amended.

With this view We have then taken, We feel there is no need to rule on the minor subsidiary issues raised by both parties on the first point.

Anent the question of the increase in union monthly dues of the members, it is the position of the petitioners that although the law provides for approval by the general membership under a procedure set down in it, there was substantial compliance with the legal requirements because a general authority to make additional assessments by the board of directors is already included in the acceptance of the employment of every employee into the company and as member of the union. We are not, however, inclined to uphold such a practice pregnant with possible abuses. Accordingly, it is Our considered opinion and We, therefore, hold that the increase of P8.00 approved by the Tibi board of directors should be submitted as soon as the respondent Director may deem practicable, to a referendum among the general membership as required by law. Should the result be negative, then all amounts already collected must be credited accordingly in favor of the respective members either for their future legal dues or other assessments or even delinquencies, if any. And if this arrangement regarding the actual refund of what might be excessive dues is not acceptable to the majority of the members, the matter may be decided in a general meeting called for the purpose.

WHEREFORE, judgment is hereby rendered upholding the impugned elections of December 11, 1979, provided the term of petitioner Tibi and the officers elected with him shall end on December 10, 1981 and provided, further, that after December 1981, the term of the officers to be elected should be as the Ministry of Labor may prescribe uniformly for all unions, and as regards the increase in the union dues, We order that the same be treated as stated in the above opinion.

Aquino, Concepcion, Jr., Abad Santos and De Castro, JJ., concur.

[1] It appears tho that the existing practice in the SMC Employees Union was to hold the elections every three years.

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