

**SAULOG TRANSIT, INC., PETITIONER, VS. HON. MANUEL M. LAZARO,
IN HIS CAPACITY AS PRESIDENTIAL ASSISTANT FOR LEGAL
AFFAIRS, HON. BLAS F. OPLE, MINISTER OF LABOR AND
EMPLOYMENT, AN...**

G.R. No. 63284. April 04, 1984

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for certiorari to set aside the order of the respondent Presidential Assistant for Legal Affairs dated January 21, 1983 which affirmed the decision of the respondent Minister of Labor and Employment dated January 20, 1982, ordering the petitioner to comply with the wage rates in the Supplemental Collective Bargaining Agreement and to pay its qualified employees the 13th month pay and various allowances under applicable Presidential Decrees, and both parties to obey the implementation of the return to work orders.

The antecedent facts are stated in the order of the Presidential Assistant for Legal Affairs:

"It appears that in the morning of January 23, 1981, Complainants-Appellees staged a strike against Respondent-Appellant at the latter's station in Cavite City and, thereafter, picketed the premises thereof.

"All efforts at mediation and conciliation by the Minister of Labor and Employment failed. And in the evening of the same date, January 23, 1981, the Minister issued the following Return-to-Work Order:

"All striking workers of Saulog Transit, Inc. are hereby ordered to return to work immediately and to desist from striking whether the strike is for cause or otherwise.

"The management is likewise ordered to allow all workers to return to work under the same terms and conditions prevailing previous to the work stoppage.

"The Ministry shall however continue conciliating the dispute with view to amicable settlement by the parties on the issues raised."

"More conciliation conferences followed. But the parties remained deadlocked on the key issues. x x x"

On January 29, 1981, the respondent Minister of Labor and Employment issued another order which provided as follows:

"1. All workers concerned shall return to work within two (2) days from 30 January 1981 and management shall accept them back under the same terms and conditions existing prior to the walkout

"2. The issues raised by the workers/employees as listed above shall be submitted for arbitration and decision by the Ministry of Labor and Employment within ten (10) days from the submission of the respective position papers by the parties."

On February 4, 1981, respondent Robert Arevalo, acting on behalf of the private respondents, filed the required

position paper attaching the respondents' documentary evidence. On February 9, 1981, the petitioner filed a motion to secure an order requiring the private respondents to specify the names of the "more or less 250 other complainants" referred to in the position paper. On the same date, the respondents wrote a letter to the Minister complaining about the petitioner's refusal to comply with the return-to-work order. The next day, the respondents submitted the list of the names of the two hundred sixty (260) other complainants.

On March 2, 1981, the petitioner filed an omnibus motion praying that the case be dismissed on the following grounds: (1) the Ministry of Labor and Employment did not have jurisdiction over the case; (2) no complaint or petition of whatever kind or nature was filed with the Ministry, and, no one among the private respondents invoked the authority or jurisdiction of the Ministry; (3) the class suit maintained by Robert Arevalo was improper and (4) the private respondents had no cause of action against petitioner, the charge of unfair labor practice being groundless. Petitioner also incorporated in its motion a position paper it submitted in connection with a case filed against it by Robert Arevalo and adopted said paper as part of its motion.

On April 1, 1981, the Ministry of Labor and Employment issued a resolution, the dispositive portion of which reads:

"WHEREFORE, premises considered, the following are hereby ordered:

"1) For the respondent to upgrade effective immediately the percentage commission of drivers and conductors to 7.5% and 6.5%, respectively;

"2) For respondent to pay the 13th month pay of the mechanics and other employees who are not paid on purely commission basis if they have served for at least one (1) month within the calendar year and their month salary does not exceed P1,000.00;

"3) For the respondent to pay the drivers and conductors paid on purely commission basis the allowances under P.D. 525, 1123, 1678 and 1713, if their total monthly earnings do not exceed the salary ceiling set by the respective decrees and whose right thereto has not yet prescribed. Respondent, however, shall pay all the mechanics and other employees who are not paid on purely commission basis all the allowances under all the decrees;

"4) For the drivers and conductors to share with the respondent the responsibility of cleaning/washing the bus."

On April 28, 1981, the petitioner filed a motion for reconsideration and alleged among others that the resolution of the Minister "effectively amended the present certified Collective Bargaining Agreement which has yet to expire on September 1, 1981; x x x".

On January 20, 1982, the Minister rendered a decision modifying the earlier resolution stating that:

"As regard the alleged disregard by this Office of free collective bargaining processes, this Office never intended to subvert the will of the employees in matters affecting their interest. In this connection, a more careful re-examination of the records of the case discloses the existence of a Supplemental Collective Bargaining Agreement dated 15 January 1979. x x x"

In the said supplemental collective bargaining agreement, the petitioner agreed to pay higher percentages based on either the employees' gross earnings or monthly daily wage. The Minister stated that in the proceedings before it, management never made reference to these higher wage rates while the complaining workers appeared to be unaware of the specific provision in the supplemental collective bargaining agreement which provided even better terms than what the Minister ordered in his initial resolution.

In the dispositive portion of the decision, the Minister therefore further ordered the following:

xxx xxx xxx

"4. For management to faithfully comply with the rates of wages as agreed upon and provided for in the Supplemental Collective Bargaining Agreement executed on 15 January 1979, the pertinent portions of which were quoted earlier in this decision; and

"5. All strikers who refused to comply with the return-to-work orders of 29 January 1981 and 19 February 1981 are hereby deemed to have abandoned their work and those who reported for work but were refused admission by management be immediately admitted back to work."

Petitioner filed an appeal with the Office of the President but the said appeal was denied on January 21, 1983.

The petitioner filed its petition on April 7, 1983. Considering the nature of the issues raised by both the petitioner and the respondents, we have decided to give due course to the petition and to treat the comments of the public respondents, adopted by the private respondents as their comments, as the answer of both public and private respondents. We have likewise given careful consideration to the 60 pages memorandum filed by the petitioner on September 8, 1983.

The issues raised in the petition are:

"(1) Has the Honorable Minister of Labor and Employment, by himself alone, exclusive jurisdiction or even jurisdiction at all to pass on and decide labor disputes, involving highly conflicting claims of disputants thereto, without the parties being given the opportunity to present their witnesses, without the opportunity of parties to test, explain or refute, and made findings of fact by administrative fiat?

"(2) If, His Honor, has the power of jurisdiction to pass on and decide such disputes, and decided the same without notice and opportunity for hearing, did he not violate both 1935 and 1973 Constitution, which ordained, that no person shall be deprived of life, liberty or property without due process of law;

"(3) May the said Minister of Labor and Employment entertain a matter not in dispute, such as, violation of CBA, an unfair labor practice act, without a complaint first filed and not even included as one of the issues raised in complainants' position paper or pleading?

"(4) Does the Minister of Labor and Employment acquire jurisdiction over the persons of Drivers, Conductors and Mechanics on the employ of your petitioner, on the strength merely of the sole representation of one Robert Arevalo he is their leader of the employees concerned without authority and without an inquiry first conducted about the correctness of such claims, more so that the great majority of your petitioner's employees did not wish to be involved in said action or proceeding below?

"(5) In such situation, would not the proceedings below be rendered completely null and void, consistent with the teaching laid down in the case of *Lim Tanhu v. Ramolete*, 66 SCRA 448-449?

"(6) Did not the Honorable Minister of Labor and Employment commit grave abuse of discretion in authorizing the increase of commission rates from 4.5% and 6.5% to 6.5% and 8.5% for conductors and drivers, respectively, of the total gross earning, without first giving your petitioner the opportunity to present evidence in support of its defenses.

The above issues are subsumed into two main issues of jurisdiction and due process, namely - (1) Whether or not the respondent Minister acquired jurisdiction over the subject-matter of the dispute and the parties of the same; and (2) Whether or not the petitioner's right to due process had been violated.

Petitioner maintains that the Minister gravely abused his discretion in assuming jurisdiction over the dispute between the petitioner and respondents when said dispute involves matters which are clearly within the jurisdiction of the Labor Arbiter, namely: unfair labor practice and money claims. Petitioner also questions the

jurisdiction of the Minister over the persons of the respondents on the grounds that neither a notice of strike nor a formal complaint was filed with him by any of said respondents; and that respondent Arevalo cannot institute a class suit on their behalves because the former is only an authorized representative of Saulog Workers-National Federation of Labor while the real party in interest is the Kapisanan Ng Manggagawa sa Saulog Transit which is the recognized bargaining agent of all rank-and-file employees of the Saulog Transit, Inc.

The above contentions are without merit.

It is true that no notice of strike was filed by the respondents and neither did they present any formal complaint to the Ministry before they actually went on strike. Such facts, however, do not preclude the Minister from assuming jurisdiction. The petitioner has not shown that its business of public transportation covering not only the entire province of Cavite but also connecting Cavite to Metro Manila and to various other provinces and cities is not covered within the meaning and purview of "vital industries" under Section 2(e) of the Rules and Regulations Implementing Presidential Decree No. 823 as amended by Presidential Decree No. 849. As a vital industry, the business of the petitioner is governed by the strict prohibition against all forms of strikes, picketing, and lockouts found in said decrees which were applicable at that time.

The petitioner contends that the Minister acted even before three conditions necessary to confer jurisdiction were present, namely:

- (1) Conciliation and mediation over the labor disputes must first be exerted;
- (2) The Bureau of Labor Relations the Regional Office, the National Labor Relations Commission or Voluntary Arbitrator should be unable to resolve the dispute within the reglementary period; and
- (3) Assumption of jurisdiction may be made only upon the advice and recommendation of the Under Secretary of Labor and Employment, the Chairman of the National Labor Relations Commission, and the Director of the Bureau of Labor Relations.

The contentions have no merit. Before the respondent Minister issued his January 23, 1981 return to work order, efforts at mediation and conciliation had already been taken but the same were not successful.

The resolution dated April 1, 1981 states:

"The dispute was ultimately taken cognizance of by the Minister of Labor and Employment. After a series of conciliation conferences with the end and view of full settlement of their differences, the parties remained deadlocked on the key issues. As a result thereof, the Ministry on January 19, 1981 after consultations with the parties and with their conformity issued an Order, requiring all workers concerned to return to work within two (2) days from January 20, 1981 and the management on the other hand shall accept them back under the same terms and conditions existing prior to the walkout and that the issues raised shall be submitted for decision."

Significantly, the return to work order expressly declared that the Ministry of Labor and Employment shall continue its conciliation efforts and would still try to bring about an amicable settlement even at that stage. More conciliation conferences actually followed the return to work order but the parties remained deadlocked on the main issues. There was, therefore, a failure to resolve the disputes through the very methods which the petitioner now claims should first have been applied.

Confronted with the strike which virtually paralyzed the transportation services of the petitioner and taking into account the inability of his Ministry's intervention to bring about an amicable settlement between the parties, the Minister rightly assumed jurisdiction. He did not have to wait for any notice of strike or formal complaint about a strike already in progress before he could exercise the powers given to him by law to avoid the strikes, picketing, or lockouts contemplated in the grant of power.

An actual strike effectively paralyzing an industry where strikes were not allowed and compulsory arbitration was mandated, called for his immediate action. The respondent Minister did not need the recommendation of his own Under-Secretary or Deputy Minister, under the facts of this case, to know what steps were necessary or that they were necessary to achieve compulsory arbitration of the main issues which led to the impasse and the strike.

As the Minister correctly stated in his decision:

"On the question of jurisdiction, while it may be conceded that there was no notice of strike, the fact is, this Office took cognizance of the labor dispute. It cannot be denied that immediately upon learning of the actual strike, this Office summoned the parties to several conciliation conferences to which the parties voluntarily submitted. When no amicable settlement was forthcoming this Office decided to assume jurisdiction over the dispute.

"This Office cannot just wait in the background in the face of a real and actual labor dispute on the argument that there was no formal notice of strike filed. A technical error on the part of the disputants cannot divest this Office of its jurisdiction over strikes once taken cognizance of.

"With respect to the alleged absence of hearing, aside from the conciliation conferences conducted, the records show that herein respondent filed before this Office its formal pleadings to the case where it extensively ventilated its stand on the issue."

Furthermore, the petitioner is now estopped from questioning the jurisdiction of the respondent Minister. It should be noted that in its omnibus motion, the petitioner, although questioning the assumption of jurisdiction by the Minister, nevertheless invoked the Minister's jurisdiction in order to have the case filed against it by respondent Arevalo dismissed. This is borne out by the petitioner's position paper which was incorporated with the Omnibus motion. The petitioner stated in its position paper:

Reasons of public policy, which prevent multiplicity of suits, demand that the above entitled case be DISMISSED outright. This is so, for the simple reason, that the Honorable Minister of Labor already assumed jurisdiction over all disputes, demands or issues involved in the so-called strike, for which complainant Robert S. Arevalo was a very active participants thereto. Otherwise, there will be conflict of decisions." (Italics supplied)

It is a settled rule that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and after failing to obtain such relief, repudiate or question that same jurisdiction. A party cannot invoke jurisdiction at one time and reject it at another time in the same controversy to suit its interests and convenience. The Court frowns upon and does not tolerate the undesirable practice of some litigants who submit voluntarily a cause and then accepting the judgment when favorable to them and attacking it for lack of jurisdiction when adverse. (*Tajonera v. Lamarosa*, 110 SCRA 447, citing *Tijam v. Sibonghanoy*, 23 SCRA 35).

The petitioner questions the personality of Robert Arevalo, "alleged leader of the so-called Saulog Transit Workers" to act for the petitioner's employees. It stated in the proceedings before the respondent Minister that "an insignificant few" were dragging the great majority into a dispute in which they refused to have any part.

We sustain the institution of a class suit by respondent Arevalo on behalf of the "drivers, conductors, and mechanics of Saulog Transit, Inc."

During the conciliation conferences, there was an agreement between the parties to limit the number of representatives of the striking employees. The representatives chose Robert Arevalo to be their leader and the spokesman for all the strikers. It is true that the private respondents failed to state their individual names as the real parties in interest when their position paper was filed. However, this defect was cured because the respondent Minister, taking cognizance of the petitioner's objections, ordered the respondents to specify who were the

"complainants numbering about 250 more or less (who) are all regular drivers, conductors, conductresses, and mechanics of respondent and is (sic) represented by their leader Robert Arevalo x x x." The respondents immediately furnished their list of 260 names in addition to Arevalo. Not one of those listed as complainants has objected or repudiated Arevalo's authority to represent him or her, in the Ministry, in the Office of the President, and before the Supreme Court. Hence, for equitable reasons, we hold that the steps taken by the private respondents are sufficient for the purpose of instituting a class suit. In *Lakas Ng Manggagawa v. Marcelo Enterprises* (118 SCRA 422) we applied the same liberal rule and stated:

"In fairness to the complaining employees, however, We treated their Motion for Reconsideration of the Decision subject of appeal as curing the defect of the complaint as the said motion expressly manifested their collective desire to pursue the complaint for and in their own behalves and disauthorizing LAKAS' counsel from further representing them. And We have also treated their petition before Us in the same manner, disregarding the fact that LAKAS remained the petitioning party, as it appears from the verification that the petition in L-38258 was for and in behalf of the complaining employees. x x x"

The *Kapisanan ng Manggagawa ng Saulog Transit, Inc.* cannot be the real party in interest even though it is alleged to be the recognized bargaining unit as it does not appear from the records that the respondents are members thereof. It may be noted that we have a peculiar situation in this case where a supplemental collective bargaining agreement provides wage rates unknown to the workers and higher than those ordered by the Minister in his first Resolution of April 1, 1981 thus compelling him to modify his decision when he acted on the petitioner's motion for reconsideration and to order the payment of wage rates pursuant to the Collective Bargaining Agreement.

The contention that petitioner was denied due process of law is likewise devoid of merit. A perusal of the records shows that the petitioner was initially given the chance to air its views during the conference presided by Brigadier General Prospero Olivas. There were various other occasions during the proceedings below - not only at the conciliation conferences but before the respondent Minister and the respondent Presidential Assistant - where the petitioner not only had the opportunity to be heard but where it was actually heard.

We agree with the public respondents who stated:

"It is respectfully submitted that petitioner had been afforded its right to due process. As held in *Cornelio v. Secretary of Justice*, 57 SCRA 663 (1974), 'lack of opportunity to be heard, and not absence of previous notice, constitutes violation of due process'. In another case, it was held that 'all that due process requires is an opportunity to be heard'. (*Auyong Hian v. Court of Tax Appeals*, 59 SCRA 110 [1974]; citing *Asprex v. Itchon, et al.*, 16 SCRA 921 [1966]).

"In the instant case, petitioner submitted a position paper (Annex 'C') wherein it stated and discussed its side on the issues enumerated in the respondent Minister's Order of January 29, 1981. Such fact alone would negate the claim of denial of due process (*Cebu Institute of Technology v. Minister of Labor*, 113 SCRA 257, 265-266 [1982]). In a later case, *Mamerto, et al. v. Inciong, et al.*, G.R. No. 53060, promulgated on November 15, 1982, this Court ruled out the claim of due process violation where the '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, which was denied.' (at p. 5, *id.*). It was there observed that while the action of the Regional Director had been summary, it was undeniable that the petitioners were given a chance to be heard (*id.*).

"This was not all. Petitioner filed a motion for reconsideration dated April 24, 1981 (Annex 'E'), discussing and extensively ventilating its stand on the various issues involved in the case. The respondent Minister considered the arguments and/or evidence presented therein and still denied the motion (*Caltex [Phil.] v. Castillo*, 21 SCRA 1071 [1967]; cf. *Edwards v. McCoy*, 22 Phil. 598 [1912]). This fact, again, would militate against the

claim of denial of due process. In *Maglasang v. Ople*, 63 SCRA 508, this Court ruled:

"The relevant excerpt from *Batangas Laguna Tayabas Bus Company v. Cadico* makes that clear. Thus: 'As far back as 1935, it has already been a settled doctrine that a plea of denial of procedural due process does not lie where a defect consisting of an absence of notice of hearing was thereafter cured by the alleged aggrieved party having had the opportunity to be heard on a motion for reconsideration. 'What the law prohibits is not the absence of previous notice, but the absolute absence thereof and lack of opportunity to be heard.' There is then no occasion to impute deprivation of property without due process where the adverse party was heard on a motion for reconsideration constituting as it does 'sufficient opportunity' for him to inform the Tribunal concerned of his side of the controversy. As was stated in a recent decision, what 'due process contemplates is freedom from arbitrariness and what it requires is fairness or justice, the substance rather than the form being paramount,' the conclusion being that the hearing on a motion for reconsideration meets the strict requirement of due process (*Ibid*). [at pp. 511-512, *id*]].

"From this denial, appeal was made to the Office of the President which, through the Presidential Assistant for Legal Affairs, 'denied' it. Thus, another opportunity was given to the petitioner to ventilate its side; again, due process had been afforded it (*Demaronsing v. Tandayag*, 58 SCRA 484 [1974]).

"In this connection, there is no truth to the assertion of petitioner that its position paper was incorporated in the omnibus motion only to demonstrate that Robert Arevalo had no personality to sue for and in behalf of all the employees of petitioner. Such position paper was adopted by the petitioner also to ventilate all other issues in the instant labor dispute. x x x"

As earlier noted, the questioned decisions of the public respondents ordered - (1) the payment of thirteenth-month pay to employees not paid on purely commission basis and who are entitled under the law to such payment, (2) the payment of allowances under various decrees, distinguishing between employees paid on commission basis and employees who are not; (3) the sharing by drivers and conductors with the petitioners of the responsibility to clean and wash the buses, (4) the compliance by management with the wage rates provided in the supplemental collective bargaining agreement, and (5) the admission by the petitioner of employees who report for work while those who violate the return to work orders would be deemed as having abandoned their employment.

We note that the petitioner relies on purely procedural grounds in its efforts to have the above orders revoked. There has been no invocation of a denial of substantial justice. The petitioner has failed to show that, in considering and resolving the merits of the cases before them, the public respondents committed reversible error, much less grave abuse of discretion. The Labor Code provides that proceedings before the adjudicatory bodies of the Ministry of Labor are not governed by the technical rules of procedure prevailing in courts of law or equity and are summary in nature. (See *Tajonera v. Lamaroza*, 110 SCRA 428, citing *Maglasang v. Ople*, 63 SCRA 511-513; Art. 221, Labor Code of the Philippines). Moreover, the decisions and orders of the public respondents are in keeping with the constitutional provisions on social justice and protection to labor. (Sections 6 and 9, Article II, Constitution.) A denial of due process not having been clearly substantiated, the decisions may not be set aside on the basis of procedural technicalities.

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The questioned decisions of the public respondents are AFFIRMED. Costs against the petitioner.

SO ORDERED.

Melencio-Herrera, (Acting Chairman), Plana, Relova, and De la Fuente, JJ., concur.

Teehankee, J., on official leave.

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