

NATIONAL FEDERATION OF LABOR, (NASIR AHMAD, RAMON ABUNDO, LUIS ARANETA, RAFAEL ACEJAS, ANTONIO ALFONSO, HERNANI ASURA, EMERITO ABELLA, ANASTACIO ALCUIZAR, ROGELIO ALPUERTO, VICE...

G.R. No. 64183. September 15, 1983

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

It was the failure of respondent Zamboanga Wood Products, Inc. to admit striking petitioners, eighty-one in number, back to work after an order of Minister Blas F. Ople certifying to the National Labor Relations Commission the labor dispute for arbitration pursuant to Article 264(g) of the Labor Code of the Philippines, that prompted the filing of this mandamus proceeding. As set forth in such order: "In line with this certification, all striking workers including those terminated by the company, must return to work immediately and Management shall accept all returning workers under the same terms and conditions prevailing previous to the work stoppage. The assistance of the military and police Authorities is requested for the effective and orderly implementation of this order. The NLRC is given thirty (30) days from receipt hereof to terminate proceedings." [1] On the face of it, it seems difficult to explain why private respondent would not comply with such order considering that the request for compulsory arbitration came from it. [2] It ignored this notification by the presidents of the labor unions involved to its resident manager that the striking employees would lift their picket line and start returning to work on August 20, 1982. [3] Then, too, Minister Ople denied a partial motion for reconsideration insofar as the return-to-work aspect is concerned which reads: "We find no merit in the said Motion for Reconsideration. The Labor Code, as amended, specifically Article 264 (g), mandates that when-ever a labor dispute is certified by the Minister of Labor and Employment to the National Labor Relations Commission for compulsory arbitration and a strike has already taken place at the time of certification, 'all striking employees shall immediately return to work and the employees shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike.'" [4]

As of the time of the filing of the petition, ten months from the return-to-work order, no such compliance was effected. The Court, in a resolution dated June 22, 1983, required comment from respondents. [5] In the comment submitted by the private respondent, it was argued that the mandamus suit should be dismissed on the ground that there was no right to the writ prayed for. Such an argument is based on the fact that with the case being consolidated with G.R. No. 62893, it cannot be said that the right of the laborers to return to work has been established.

The comment of the Solicitor General for public respondents on the other hand, after setting forth that the only issue is the right to compel private respondent to execute the return-to-work order, was quite categorical. Petitioners must prevail. It explained why, citing the relevant provision of the Labor Code which reads: "If one [a strike] has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under

the same terms and conditions prevail-ing before the strike or lockout." [6] It also pointed out that such a norm merely reaffirms what was set forth in an earlier decision, *Philippine Air Lines Employees Association (PALEA) v. Philippine Air Lines, Inc.*: [7] "The very nature of a return-to--work order issued in a certified case lends itself to no other construction. The certification attests to the urgency of the matter, affecting as it does an industry indispensable to the national interest. The order is issued in the exercise of the court's compulsory power of arbitration, and therefore must be obeyed until set aside. To say that its effectivity must await affirmance on a motion for reconsideration is not only to emasculate it but indeed to defeat its import, for by then the deadline fixed for the return to work would, in the ordinary course, have already passed and hence can no longer be affirmed insofar as the time element is concerned." [8]

It is quite apparent, therefore, why this case calls for prompt decision. After this long lapse of time, respondent Zamboanga Wood Products, Inc. had failed to abide by the clear and mandatory requirement of the law. It would negate the very purpose of a compulsory arbitration, which precisely is intended to call a halt to a pending strike by requiring that the status quo prior to its declaration be preserved, if one of the parties fails to live up to such a norm. The inconsistencies between what was sought by private respondent, namely, compulsory arbitration, and the failure to admit the striking employees back to work in the meantime, cannot be countenanced. As noted earlier, time is of the essence as far as the eighty-one petitioners are concerned.

WHEREFORE, the petition for mandamus is granted. Public respondents are hereby ordered to implement their return-to-work order, and private respondent must respect the right of the eighty-one petitioners to resume their respective positions as of the time the strike was called. The question as to the back wages and their seniority rights will be determined in the compulsory arbitration proceeding. This decision is immediately executory.

Teehankee, Makasiar, Aquino, Concepcion, Jr., Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, and Gutierrez, Jr., JJ., concur.

Relova, J., no part.

De Castro, J., on sick leave.

[1] Annex A to Petition, 2.

[2] Annex B to Petition.

[3] Annex C to Petition.

[4] Annex D to Petition.

[5] The case was originally assigned to the Second Division as no legal question was raised. However, it being related to G.R. No. 62893 entitled *Zamboanga Wood Products, Inc. v. Hon. Blas F. Ople, et al.*, the case was endorsed to the Court en banc.

[6] Comment of Public Respondents, 5, citing Article 264(g) of the Labor Code of the Philippines, as amended by Batas Pambansa Blg. 227.

[7] L-32740, March 31, 1971, 38 SCRA 372.

[8] *Ibid*, 377. Cf. *Philippine Airlines Employees Asso. v. Court of Industrial Relations*, L-26063, Nov. 29, 1976, 74 SCRA 100; *Free Telephone Workers Union v. Minister of Labor*, 58184, Oct. 30, 1981, 108 SCRA 757.

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