

CMC MONTHLY EMPLOYEES UNION TUPAS LOCAL CHAPTER NO. 992, FOR AND IN BEHALF OF RENATO SERAFIN, MELANO VILLANUEVA, ROGELIO FRANCISCO, FORTEVILLAR LACERNA, CRISPIN MATEO, JOSE CRUZ...

G.R. No. 68448. November 09, 1987

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a special civil action for certiorari which seeks to annul the decision of the public respondent in Case No. AB-4-10741-81.[1]

On March 24, 1981, the petitioners filed a complaint against the private respondent with the Ministry of Labor and Employment (MOLE). The case was docketed as Case No. AB-4-10741-81 and was assigned to the sala of Labor Arbiter Porfirio E. Villanueva of the Arbitration Branch of the National Labor Relations Commission (NLRC). Eventually, the parties agreed to dispense with a hearing of the case on the merits, and instead opted to submit the same for decision on the basis of position papers, affidavits and other documentary evidence.

The petitioners claimed that the private respondent violated Article 118 of the Labor Code and thereby committed an Unfair Labor Practice.[2] Allegedly, the eight individual petitioners, being monthly paid employees, were reverted in status by the private respondent to daily paid employees, and thus they suffered a diminution in pay. This act was apparently done by the private respondent because the individual petitioners were about to testify in a certification election case filed by the petitioner union (comprised of monthly paid rank-and-file employees).

On the other hand, the private respondent contended that prior to the filing of the case at bar, there was a decision rendered by Labor Arbiter Apolinar L. Sevilla in Case No. AB-8-7930-80. The private respondent averred that in that case, the complaining union (NAMAWU Local 180), a union composed of daily rank-and-file employees, claimed that the individual petitioners are its members and the private respondent erroneously converted them to monthly paid employees status. Arbiter Sevilla allegedly ordered in his decision that the individual petitioners be reverted back to daily paid workers status. Therefore, the private respondent maintained that the act complained of by the herein petitioners was a mere act of compliance with the decision of Arbiter Sevilla and was thus justified.

In his decision dated January 27, 1983, Arbiter Villanueva disposed of the preceding contention of the private respondent by stating that:

"With deference to the above-mentioned Decision [of Arbiter Sevilla] this Office believes that the issue and/or issues involved in the two cases are entirely distinct and different from one another. The issue raised by complainants in this case is the conversion of their monthly salaries to daily basis which they have enjoyed long before the signing of the CBA between NAMAWU and the company. This case was filed subsequent to the promulgation of the Decision dated January 28, 1981."[3]

He later found the private respondent to be guilty of violating Article 118 of the Labor Code so he thus held in the

dispositive portion of the decision that:

"WHEREFORE, respondent is hereby ordered:

1. to restore complainants to their former status as regular employees receiving monthly salaries; and
2. to pay complainants the difference of their salaries from daily salaried workers to monthly salaried workers."[4]

The private respondent immediately filed its appeal with the public respondent.

On November 17, 1983, the public respondent promulgated its decision in favor of the private respondent. Its ruling is as follows:

"The record shows that the parties in the instant case and those in the case decided by Labor Arbiter Apolinar L. Sevilla are the same, albeit in the latter case the complainants appear to be NAMAWU LOCAL 180 AND MARINO PICONES.

Obviously, we cannot now modify the terms and conditions of employment as set by the terms of the Decision of Labor Arbiter Apolinar L. Sevilla for the reason that the said Decision having attained finality has become the law of the case, and for the peace and harmony in the bargaining unit as well as for all legal intents and purposes, it has to be respected. x x x x x x x x x x x x x x x x x x x x x x

"WHEREFORE, the appealed Decision should be, as it is hereby, Reversed and the complaint dismissed for lack of merit."[5]

The petitioners' Motion For Reconsideration was denied by the public respondent in an order dated February 29, 1984. Hence, they filed this instant petition for certiorari.

To rule upon the correctness of the public respondent's decision, We carefully examined the decision of Arbiter Sevilla in Case No. AB-8-7930-80.

Quoted hereunder are the portions in the decision of Arbiter Sevilla that are pertinent for the adjudication of the case at bar. They are as follows:

"x x x They [complainants NAMAWU Local 180 and its president, Marino Picones] allege that respondents circumvent the 'union shop' clause as provided in Section 2, Article II of the collective bargaining agreement (CBA) by converting the daily wage workers who are about to become permanent to monthly paid employees so that they are excluded from the bargaining unit;

x x x x x x x x x

Respondents denied all the allegations of complainants. They claim that the conversion from the daily to monthly status of ten (not eleven) workers were effected before the signing of the CBA on December 11, 1979. They are Jose Cruz, Israel Sarmiento, Eugene Llanera, Jess Camacho, Renato Serafin, Melanio Villanueva, Rogelio Francisco, Fortivillar Lacerna, Crispin Mateo, and Ernesto Abella. x x x x x x x x x x x x x x x

On the issue of whether unfair labor practice was committed by respondents in converting the daily wage workers to monthly basis it is noted that the 25 names mentioned by complainants who were excluded from the bargaining unit (Annex "B-3") and thus deprived of the benefits under the CBA have been acknowledged by Marcel Vantomme, Plant Administrative Services Manager of respondent as included in the bargaining unit as per his sworn affidavit and are therefore included in the salary increase under the CBA of 11 December 1979 granting an adjustment of 1.00 per day effective December 1, 1979 as per Section 1, Article VI of the CBA. These workers are:

1. Abad, Eduardo
2. Anievas, Rolando
3. Alvarez, Edgardo
4. Corpuz, Tirso
5. Caponpon, Menandro
6. Duetas, Pedro
7. Deus, Cayetano
8. Dilig, Guillermo
9. Damian, Florentino
10. Estacio, Dionisio
11. Fuertes, Joseph
12. Feliciano, Jaime
13. Francisco, Ricardo
14. Guillermo, Saturnino
15. Gabriel, Romeo
16. Lao, Juanito
17. Mamuyak, Geronimo
18. Patag, Roberto
19. Taneza, Danilo
20. Valbarez, Antero
21. Vargas, Enrico
22. Abuda, Norberto
23. Casinao, Ireneo
24. Ditablan, Hernando
25. Eborde, Antonio

Because they belong to the bargaining unit at the time the CBA was executed they should not be excluded from the benefits therein granted.

Respondents' contention that the ten (10) workers mentioned in its position papers became permanent prior to the execution of the CBA is not disputed by the complainant. What the latter is contesting is the exclusion of the 25 workers mentioned in the union letter of August 12, 1980 (Annex "B-2") to the company. Considering that the 25 individuals are members of complainant union and belong to the bargaining unit, there is no valid reason why they should be subsequently excluded therefrom by converting their salaries from daily to monthly basis. These conversions amount to interference with the rights of the workers to self-organization as defined

under Article 248, pars. (a) and (e) of the Labor Code. They can not be stripped of their union membership without their consent.

x x x x x x

x x x x x x

WHEREFORE, respondent is hereby ordered:

1. To cease and desist from further converting the employees from daily wage to monthly basis; and
2. To consider the twenty five (25) employees mentioned herein as belonging to the bargaining unit and extend to them all benefits under the October 11, 1979 CBA."(Emphasis supplied)[6]

Petitioner Teofilo Duran's name is not at all mentioned in the decision of Arbiter Sevilla. Therefore, the said decision cannot affect him and the "law of the case" doctrine which the public respondent invoked in its decision cannot be applied to him. As to petitioner Duran, the decision of the public respondent must be annulled and set aside.

The names of petitioners Jose Cruz, Renato Serafin, Melanio Villanueva, Rogelio Francisco, Fortivillar Lacerna, and Crispin Mateo appear in the second paragraph of the above-quoted decision of Arbiter Sevilla. However, a thorough perusal of the said decision will reveal that these six petitioners are not covered or to be affected by it. The private respondent itself merely used them as part of its defense by alleging that these six petitioners were promoted to monthly status before the signing of the CBA from which the controversy arose. Anyway, it is clear from the underscored portion of the fourth paragraph of the above-quoted decision that the status of these six petitioners was not disputed by the complainants therein. What was being contested in that case was the status of the twenty-five workers listed in the third paragraph. In fact, number one in the dispositive portion of Arbiter Sevilla's decision orders the private respondent "to cease and desist from further converting the employees x x x x"[7], meaning that this order seeks to prevent any possible conversion of the employees' status after the promulgation of the decision. Said order cannot be applied to employees who had been previously promoted to monthly status. Consequently, in the case of these six petitioners, the public respondent's decision must also be annulled and set aside.

It is different in the case of petitioner Saturnino Guillermo. His name is included in the list of twenty-five workers directly affected by the decision of Arbiter Sevilla. In fact, number two of the dispositive portion of that decision specifically orders the private respondent to consider the twenty-five employees mentioned as belonging to the bargaining unit of the complainant union. Being a part of the said bargaining unit, these twenty-five workers must necessarily assume the status of daily paid employees. Thus, the public respondent's decision must be affirmed in the case of petitioner Saturnino Guillermo.

Accordingly, the decision of the public respondent in Case No. AB-4-10741-81 is hereby AFFIRMED only as to petitioner Saturnino Guillermo. The said decision is hereby annulled and set aside as to the rest of the petitioners.

WHEREFORE, the subject decision is AFFIRMED as to petitioner Saturnino Guillermo but it is hereby annulled and set aside as to the rest of the petitioners without pronouncement as to costs.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Paras, JJ., concur.

[1] Rendered by the Second Division of the NLRC which was composed of Commissioners Ricardo C. Castro,

presiding, Cecilio T. Seno, and Federico O. Borromeo.

[2] ART. 118. Retaliatory measures.- It shall be unlawful for an employer to refuse to pay or reduce the wages and benefits, discharge or in any manner discriminate against any employee who has filed any complaint or instituted any proceeding under this Title or has testified or is about to testify in such proceedings. (Labor Code)

[3] Decision of Labor Arbiter Porfirio E. Villanueva, p. 21, Rollo.

[4] Ibid., p. 22, Rollo.

[5] Decision of the NLRC, pp. 23-24, Rollo.

[6] Decision of Labor Arbiter Apolinar L. Sevilla, pp. 15-18, Rollo.

[7] Ibid., p. 18, Rollo.

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