

**ROGELIO P. CELI, MANUEL ABRAHAM, REDENTOR DE GOMA,
ELEUTERIO NATERA, EMELITA SANCHEZ, PETITIONERS, VS. HON.
DIRECTOR CRESENCIANO B. TRAJANO, CREDITUTO GONZALES,
LEONARDO PALOMA...**

G.R. NO. 70835. April 20, 1990

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for Certiorari with Preliminary Injunction or Temporary Restraining Order, seeking the annulment of the March 5, 1985 decision of the Bureau of Labor Relations Director Cresenciano B. Trajano, the dispositive portion of which, reads:

"WHEREFORE, the Med-Arbitrator's Order dated December 27, 1983 is hereby set aside and a new one entered calling an election of officers of Equitable Bank Employees Union within twenty (20) days from receipt of this Decision. The National Capital Region Labor Office shall supervise the conduct of the election.

"SO DECIDED.

"Manila, Philippines, 5 March 1985."

(Rollo, p. 39)

In conformity with the Constitution and By-Laws of the Equitable Bank Employees Union, a labor union duly registered with the Ministry of Labor and Employment and in keeping with the requirements of the Labor Code of the Philippines, the elections of the officers of the Equitable Bank Employees Union is held every three (3) years.

In connection with the elections of union officers relative to the expiration of the terms of office of the incumbent union officers, the EBEU's Executive Board created a Committee on Election (Union Comelec) pursuant to the provisions of the Union Constitution and By-Laws which provides:

"Sec. 1. There shall be a COMELEC (Committee on Elections) which shall be created by the General Membership and/or the Executive Board and Representatives at a Special meeting to be held one (1) month before any regular election. He shall take charge of the electoral procedures to ensure that the election is free, clean, honest and orderly. The Commission shall formulate election rules to safeguard the sanctity of the ballot and ensure observance of democratic processes. It shall have the sole power and authority to proclaim the winners in an election. It shall have the exclusive authority to decide election protests and its decision shall be final and unappealable.

The Union Comelec composed of respondents Monasterio (Chairman) Sims and Santos (members) promulgated rules of the conduct of election of officers, which they call Bulletin. Bulletin No. 1 strictly prescribed that only union members as of August 5, 1983 are qualified to vote.

The Union Comelec set the election of officers on two (2) dates: September 12 for the provincial branches and

September 16, 1983 for the metropolitan offices and branches of Equitable Bank, and caused the preparation and dissemination of the list of qualified votes as of August 5, 1983. Petitioners with Rogelio P. Celi as their standard bearer and respondents with the exception of Union Comelec officers, with Crestituto Gonzales as their standard bearer, were the contending candidates in the disputed elections.

The election proceeded smoothly until a problem cropped up at the lone voting precinct at the Head Office where petitioners thru Rogelio P. Celi protested the inclusion in the list of qualified voters, 35 union members assigned at the Head Office plus six (6) other members assigned at the Paseo de Roxas Branch of the Bank who became members only after the August 5, 1983 cut-off-time provided by the Union Comelec. Another protest was registered by petitioners before the actual canvassing of ballots, but despite the timely filing of said protests, the Comelec proceeded with the canvassing of all the ballots cast in Metro Manila including the challenged 35 votes from the Head Office. Said counting was allegedly done without mixing the ballots cast on each box with the ballots from the other boxes.

Respondent members of the Union Comelec came up with an election tally from each ballot box with initial results. On the other hand, due to the refusal of the respondent members of the Union Comelec to heed the timely protests made by the petitioners, the latter filed a complaint at the Med-Arbiter Section, National Capital Region, Ministry of Labor and Employment docketed as LRD-M-9-507-83.

Respondent members of the Union Comelec resumed the canvassing of the votes, this time at the Bureau of Labor Relations in the presence of Labor Conciliator Atty. Carlos Villafranca, the petitioners and the respondents and turned over the sealed ballot boxes, all the election paraphernalia, and the over-all election results to the Bureau of Labor Relations.

With the exception of petitioners Enrique Pucut and Dahlia Yabut who won by a bigger number of votes, the rest of the petitioners lost by a small margin of votes. Thus, petitioners' reading of the results of the canvassing is to the effect that all the petitioners stand good chances of reversing the election results if only their complaint or protest for the exclusion of the 35 ballots out of the 41 questioned ballots had been given due course by the Union Comelec.

The Union Comelec resolved on September 23, 1983 to defer the proclamation of any of the contending candidates until after the complaint of Mr. Celi and his party had been finally resolved by the Ministry of Labor and Employment.

On December 27, 1983, Med-Arbiter Willie Rodriguez issued an Order relative to petitioners' complaint docketed as Case No. LRD-M-9-507-83 which was decided together with the counter- protest/petition filed by the herein respondents Gonzales, et al. docketed as Case No. LRD-M-9-508-83.

The dispositive portion reads:

"WHEREFORE, in view of all the foregoing, the protestant Rogelio P. Celi is hereby declared and proclaimed to be the duly elected President. Considering that the COMELEC has not made any formal declaration as to how the 41 challenged ballots/votes were credited by them with respect to the herein candidates involved, the results of the election (except for Celi and Gonzales) as reported by the same (Results Sheet) should not be disturbed and those elected in accordance with the herein COMELEC report are hereby declared and proclaimed to be the duly elected officers of the union together with Mr. Rogelio P. Celi, the declared and proclaimed President of the Union. And as such the counter-protest of Crestituto Gonzales is hereby DISMISSED for lack of merit.

"SO ORDERED.

"Manila, Philippines, 27 December 1983."

(p. 165, Rollo)

Since the Order of Med-Arbiter Willie Rodriguez is only partially in favor of Rogelio P. Celi, Enrique Pucut and Dahlia Yabut, the latter two having obtained higher number of votes, but detrimental to the interest of the other four (4) petitioners, the latter filed a motion for reconsideration seeking the recount of all votes cast at the Head Office where the trend of voting was unanimously in favor of respondents Gonzales, et al. Petitioners insist that the 107 ballots cast at the Head Office which includes the 35 votes being questioned by the petitioners, are being kept in a separate ballot box, so that there would be no difficulty of determining the merit of petitioners' manifestation seeking the exclusion of the questioned 35 votes from the over-all results of the elections.

On their part, respondents Gonzales, et al. appealed the same Order of Willie Rodriguez. Both the motion for reconsideration filed by the petitioners and the appeal of the respondents were consolidated under BLR Appealed Case No. A-57-84. Petitioners maintained that a mere recount or recanvassing of the ballots of the Head Office would solve the contending claims of the parties to which respondent Gonzales, et al. vehemently and strongly objected.

On March 5, 1985, Dir. Cresenciano B. Trajano rendered a decision with the following dispositive portion:

"WHEREFORE, the Med-Arbiter's Order dated 27 December 1983 is set aside and a new one entered calling an election of officers of Equitable Bank Employees Union within twenty (20) days from receipt of this Decision. The National Capital Region Labor Office shall supervise the conduct of the election.

"SO ORDERED.

"Manila, Philippines, 5 March 1985."

(p. 167, Rollo)

Petitioners' motion for reconsideration and their supplemental and second supplemental motions were denied on April 16, 1985 while their second motion for reconsideration based on the ground that the majority of the union members opted to hold and conclude the collective bargaining negotiations first before holding the new elections of officers, was also denied. (Petition, pp. 6-46).

Hence this petition, raising the issue among others that respondent Director committed a grave abuse discretion amounting to lack of jurisdiction and/or in excess of jurisdiction in setting aside the Order of the Med-Arbiter dated 27 December 1983 and calling for a new election in his decision dated March 5, 1985.

The records show that the First Division of this Court, in its Resolution of June 19, 1985, (Rollo, p. 47) required the respondents to comment while petitioners filed three motions for the issuance of a Temporary Restraining Order (Rollo, pp. 48-49; 51-52; 57-61). In the third motion, petitioners averred that Director Severo Pucan, National Capital Region, gave them until July 26, 1985 to secure a temporary restraining order, otherwise, he will proceed with the election of union officers. The First Division of this Court however, resolved on July 29, 1985 to require the respondents to comment on petitioners motions (Rollo, p. 65).

On August 3, 1985 private respondents Gonzales, et al. filed their comment on the petition in compliance with the resolution of June 19, 1985 (Rollo, pp. 72-77) and on August 6, 1985, they filed their comment on the motions for a Temporary Restraining Order in compliance with the resolution of July 29, 1985 (Rollo, pp. 78-81) alleging among others that the great majority of the members of the Equitable Bank Employees Union had already spoken in the election of July 31, 1985, supervised by the MOLE; that in Greater Manila Area and some branches in Luzon, respondent Gonzales obtained a total of 185 votes for the presidency while petitioner Celi, obtained only a

total of 110 votes, thereby rendering the above-mentioned motions and petition moot and academic. To the same effect is the comment of the Solicitor General filed on August 7, 1985 on the Ex-Parte Motions for Temporary Restraining Order. (Rollo, pp. 82-83).

Considering the comment of private respondents, the Court in the resolution of August 21, 1985 required the petitioners to file a Reply thereto. Meanwhile respondent Union Comelec members filed their comment on August 26, 1985, admitting that they were pressured by the Gonzales group to admit the questioned 41 voters to vote and not to segregate their ballots in the over-all canvassing both in Manila and the provinces but begged to disagree with the findings of facts of Director Trajano that the challenged 35 votes from the Head Office were mixed with the other unchallenged votes because a separate ballot box was provided by the Union Comelec to accommodate the same, safely placed and sealed. (Rollo, pp. 89-93)

In another development, the Solicitor General in his Manifestation and Motion prayed to be excused from filing Comment in view of his position that he cannot sustain Trajano's decision.

In the resolution of September 16, 1985, petitioners were required to file a reply to the comment of respondent Union Comelec. (Rollo, p. 98)

On October 18, 1985, public respondent filed his comment on the petition (Rollo, pp. 158-164), while petitioners filed their replies to the comment of private respondents Gonzales, et al. (Rollo, pp. 168-176) and to the comment of respondent Union Comelec officials. Petitioners allege that their motions for a restraining order are not moot and academic. In fact they filed a complaint/protest at the Ministry of Labor and Employment thru the National Capital Region entitled "Rogelio P. Celi, et al. v. Crestituto Gonzales, et al." and docketed as NVR-LRD-M-7-311-85, maintaining that such elections are patently contrary to law and an absolute nullity. On November 5, 1985, private respondents Gonzales, et al. filed a Joint Reply to Comelec Chairman Monasterio and Members Sims and Santos Comment and Rejoinder to Petitioners' Reply. (Rollo, pp. 194-205)

Meanwhile, on October 28, 1985, petitioner filed a Motion to Annul Election with Prayer to Issue Temporary Restraining Order (Rollo, pp. 112-124).

After a careful perusal of the records, it was observed that election of officers of the Equitable Bank Employees Union is held every three (3) years. The last election was held on September 1983, so that the term of office of the incumbent officers in the disputed elections had already expired. In all probability, another election must have already taken place.

IN VIEW THEREOF, this petition is hereby DISMISSED, the same having become moot and academic.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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