

COLGATE PALMOLIVE PHILIPPINES, INC., PETITIONERS, VS. HON. BLAS F. OPLE, COLGATE PALMOLIVE SALES UNION, RESPONDENTS.

G.R. No. 73681. June 30, 1988

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a Petition for Certiorari seeking to set aside and annul the Order of respondent Minister of Labor and Employment (MOLE) directly certifying private respondent as the recognized and duly-authorized collective bargaining agent for petitioner's sales force and ordering the reinstatement of three employees of petitioner.

Acting on the petition for certiorari with prayer for temporary restraining order, this Court issued a Temporary Restraining Order enjoining respondents from enforcing and/or carrying out the assailed order.

The antecedent facts are as follows:

On March 1, 1985, the respondent Union filed a Notice of Strike with the Bureau of Labor Relations (BLR) on ground of unfair labor practice consisting of alleged refusal to bargain, dismissal of union officers/members; and coercing employees to retract their membership with the union and restraining non-union members from joining the union.

After efforts at amicable settlement proved unavailing, the Office of the MOLE, upon petition of petitioner assumed jurisdiction over the dispute pursuant to Article 264 (g) of the Labor Code. Thereafter the case was captioned AJML-3-142-85, BLR-3-86-85, "In Re: Assumption of Jurisdiction over the Labor Dispute at Colgate Palmolive Philippines, Inc." In its position paper, petitioner pointed out that —

- (a) There is no legal basis for the charge that the company refused to bargain collectively with the union considering that the alleged union is not the certified agent of the company salesmen;
- (b) The union's status as a legitimate labor organization is still under question because on 6 March 1985, a certain Monchito Rosales informed the BLR that an overwhelming majority of the salesmen are not in favor of the Notice of Strike allegedly filed by the Union (Annex "C");
- (c) Upon verification of the records of the Ministry of Labor and Employment, it appeared that a petition for cancellation of the registration of the alleged union was filed by Monchito Rosales on behalf of certain salesmen of the company who are obviously against the formation of the Colgate Palmolive Sales Labor Union which is supposed to represent them;
- (d) The preventive suspensions of salesmen Peregrino Sayson, Salvador Reynante and Cornelio Mejia, and their eventual dismissal from the employ of the company were carried out pursuant to the inherent right and prerogative of management to discipline erring employees; that based on the preliminary investigation conducted by the company, there appeared substantial grounds to believe that Sayson, Reynante and Mejia violated company rules and regulations necessitating their suspension pending further investigation of their respective cases;

(e) It was also ascertained that the company sustained damages resulting from the infractions committed by the three salesmen, and that the final results of the investigation fully convinced the company of the existence of just causes for the dismissal of the three salesmen;

(f) The formation of the union and the membership therein of Sayson, Reynante and Mejia were not in any manner connected with the company's decision to dismiss the three; that the fact that their dismissal came at a time when the alleged union was being formed was purely coincidental;

(g) The union's charge therefore, that the membership in the union and refusal to retract precipitated their dismissal was totally false and amounted to a malicious imputation of union busting;

(h) The company never coerced or attempted to coerce employees, much less interfered in the exercise of their right to self-organization; the company never thwarted nor tried to defeat or frustrate the employees' right to form their union in pursuit of their collective interest, as long as that right is exercised within the limits prescribed by law; in fact, there are at present two unions representing the rank and file employees of the company — the factory workers who are covered by a CBA which expired on 31 October 1985 (which was renewed on May 31, 1985) and are represented by Colgate Palmolive Employees Union (PAFLU); whereas, the salaried employees are covered by a CBA which will expire on 31 May 1986 represented by Philippine Association of Free Labor Union (PAFLU) — CPPI Office Chapter, (pp. 4-6, Rollo).

The respondent Union, on the other hand, in its position paper, reiterated the issue in its Notice to Strike, alleging that it was duly registered with the Bureau of Labor Relations under Registry No. 10312-LC with a total membership of 87 regular salesmen (nationwide) out of 117 regular salesmen presently employed by the company as of November 30, 1985 and that since the registration of the Union up to the present, more than 2/3 of the total salesmen employed are already members of the Union, leaving no doubt that the true sentiment of the salesmen was to form and organize the Colgate-Palmolive Salesmen Union. The Union further alleged that the company is unreasonably delaying the recognition of the union because when it was informed of the organization of the union, and when presented with a set of proposals for a collective bargaining agreement, the company took an adversarial stance by secretly distributing a "survey sheet on union membership" to newly hired salesmen from the Visayas, Mindanao and Metro Manila areas, purposely avoiding regular salesmen who are now members of the union; that in the accomplishment of the form, District Sales Managers, and Sales Supervisors coerced salesmen from the Visayas and Mindanao by requiring them to fill up and/or accomplish said form by checking answers which were adverse to the union; that with a handful of the survey sheets secured by management through coercion, it now would like to claim that all salesmen are not in favor of the organization of the union, which acts are clear manifestations of unfair labor practices.

On August 9, 1985, respondent Minister rendered a decision which:

(a)

found no merit in the Union's Complaint for unfair labor practice allegedly committed by petitioner as regards the alleged refusal of petitioner to negotiate with the Union, and the secret distribution of survey sheets allegedly intended to discourage unionism,

(b)

found the three salesmen, Peregrino Sayson, Salvador Reynante & Cornelio Mejia "not without fault" and that "the company[1] has grounds to dismiss above named salesmen."

and at the same time respondent Minister directly certified the respondent Union as the collective bargaining agent for the sales force in petitioner company and ordered the reinstatement of the three salesmen to the company on the ground that the employees were first offenders.

Petitioner filed a Motion for Reconsideration which was denied by respondent Minister in his assailed Order, dated December 27, 1985. Petitioner now comes to Us with the following:

Assignment of Errors

I

Respondent Minister committed a grave abuse of discretion when he directly certified the Union solely on the basis of the latter's self-serving assertion that it enjoys the support of the majority of the sales force in petitioner's company.

II

Respondent Minister committed a grave abuse of discretion when, notwithstanding his very own finding that there was just cause for the dismissal of the three (3) salesmen, he nevertheless ordered their reinstatement, (pp. 7-8, Rollo).

Petitioner concedes that respondent Minister has the power to decide a labor dispute in a case assumed by him under Art. 264 (g) of the Labor Code but this power was exceeded when he certified respondent Union as the exclusive bargaining agent of the company's salesmen since this is not a representation proceeding as described under the Labor Code. Moreover the Union did not pray for certification but merely for a finding of unfair labor practice imputed to petitioner-company.

The petition merits our consideration. The procedure for a representation case is outlined in Arts. 257-260 of the Labor Code, in relation to the provisions on cancellation of a Union which is to aid in ascertaining majority representation. The requirements under the law, specifically Sees. 2, 5, and 6 of Rule V, Book V of the Rules Implementing the Labor Code are all calculated to ensure that the certified bargaining representative is the true choice of the employees against all contenders. The Constitutional mandate that the State shall "assure the rights of the workers to self-organization, collective bargaining, security of tenure and just and humane conditions of work," should be achieved under a system of law such as the aforementioned provisions of the pertinent statutes. When an overzealous official by-passes the law on the pretext of retaining a laudable objective, the intendment or purpose of the law will lose its meaning as the law itself is disregarded. When respondent Minister directly certified the Union, he in fact disregarded this procedure and its legal requirements. There was therefore failure to determine with legal certainty whether the Union indeed enjoyed majority representation. Contrary to the respondent Minister's observation, the holding of a certification election at the proper time is not necessarily a mere formality as there was a compelling legal reason not to directly and unilaterally certify a union whose legitimacy is precisely the object of litigation in a pending cancellation case filed by certain "concerned salesmen," who also claim majority status. Even in a case where a union has filed a petition for certification elections, the mere fact that no opposition is made does not warrant a direct certification. More so as in the case at bar, when the records of the suit show that the required proof was not presented in an appropriate proceeding and that the basis of the direct certification was the Union's mere allegation in its position paper that it has 87 out of 117 regular salesmen. In other words, respondent Minister merely relied on the self-serving assertion of the respondent Union that it enjoyed the support of the majority of the salesmen, without subjecting such assertion to the test of competing claims. As pointed out by petitioner in its petition, what the respondent Minister achieved in rendering the assailed orders was to make a mockery of the procedure provided under the law for representation cases because:

- (a) He has created havoc by impliedly establishing a procedural shortcut to obtaining a direct certification — by merely filing a notice of strike.
- (b) By creating such a short-cut, he has officially encouraged disrespect for the law.

(c) By directly certifying a Union without sufficient proof of majority representation, he has in effect arrogated unto himself the right, vested naturally in the employees, to choose their collective bargaining representative.

(d) He has in effect imposed upon the petitioner the obligation to negotiate with a union whose majority representation is under serious question. This is highly irregular because while the Union enjoys the blessing of the Minister, it does not enjoy the blessing of the employees. Petitioner is therefore under threat of being held liable for refusing to negotiate with a union whose right to bargaining status has not been legally established, (pp. 9-10, Rollo).

The order of the respondent Minister to reinstate the employees despite a clear finding of guilt on their part is not in conformity with law. Reinstatement is simply incompatible with a finding of guilt. Where the totality of the evidence was sufficient to warrant the dismissal of the employees the law warrants their dismissal without making any distinction between a first offender and a habitual delinquent. Under the law, respondent Minister is duly mandated to equally protect and respect not only the labor or workers' side but also the management and/or employers' side. The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer. To order the reinstatement of the erring employees namely, Mejia, Sayson and Reynante would in effect encourage unequal protection of the laws as a managerial employee of petitioner company involved in the same incident was already dismissed and was not ordered to be reinstated. As stated by Us in the case of San Miguel Brewery vs. National Labor Union,[2] "an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interest."

In the subject order, respondent Minister cited a case[3] implying that "the proximity of the dismissal of the employees to the assumption order created a doubt as to whether their dismissal was really for just cause or due to their activities." [4]

This is of no moment for the following reasons:

(a)

Respondent Minister has still maintained in his assailed order that a just cause existed to justify the dismissal of the employees.

(b)

Respondent Minister has not made any finding substantiated by evidence that the employees were dismissed because of their union activities.

WHEREFORE, judgment is hereby rendered REVERSING and SETTING ASIDE the Order of the respondent Minister, dated December 27, 1985 for grave abuse of discretion. However, in view of the fact that the dismissed employees are first offenders, petitioner is hereby ordered to give them separation pay. The temporary restraining order is hereby made permanent.

SO ORDERED.

Yap, C. J., Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

[1] Petitioner-company.

[2] 97 Phil. 378.

[3] Oceanic Commercial Employees and Labor Assn. v. Oceanic Commercial, Inc., case No. 5787 UCP-CIR,

Acting Secretary of Labor, December 9, 1978.

[4] p. 13, Rollo.

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