

**NATIONAL ASSOCIATION OF FREE TRADE UNIONS (NAFTU-TUCP),
PETITIONER, VS. BUREAU OF LABOR RELATIONS (BLR) AND
SOUTHERN PHILIPPINES FEDERATION OF LABOR (SPFL),
RESPONDENTS, PACIFIC...**

G.R. No. 77818. August 03, 1988

Ponente: CRUZ, J.

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CRUZ, J.:

Will the direct certification of a labor union as the exclusive bargaining agent of the workers preempt and preclude the calling of a certification election on petition of another labor union in the same establishment?

The direct certification was obtained on June 6, 1986, by the petitioner in this case, the National Association of Free Trade Unions (NAFTU-TUCP), on the strength of its allegation, as confirmed by the med-arbiter, that there was no other labor union requesting recognition as representative of the workers in their negotiations with the management of the Pacific Cement Co. (PACEMCO).[1] On June 20, 1986, however, and also within the freedom period, the Southern Philippine Federation of Labor (SPFL), the private respondent herein, filed a petition for certification election signed by 168 workers, representing over 60% of the total number of rank-and-filers of the company.[2] NAFTU, as forced intervenor, opposed the petition, invoking its own earlier direct certification, but on August 11, 1986, the med-arbiter who had granted the same reversed his previous order and authorized the holding of the certification election.[3] On appeal, his order was sustained by the Bureau of Labor Standards, which held that the certification election was justified under the circumstances, adding that the workers had the constitutional right to choose the labor union to represent them in negotiating with the management.[4] Its motion for reconsideration having been denied, the petitioner then came to this Court to ask for the reversal of the resolution of the public respondent dated October 24, 1986, on the ground that it was reached with grave abuse of discretion correctible by writ of certiorari.

The original article 257 of the Labor Code provided as follows:

"ART. 257. Procedure governing representation issues. – When a question concerning the representation of employees is submitted to the Ministry, a Med-Arbiter shall hear and decide such controversy and certify to the parties in writing the name of the labor organization that has been designated or selected by the majority of the workers in the appropriate bargaining unit as the exclusive bargaining agent. If there is any reasonable doubt as to which union the employees have chosen as their representative for the purpose of collective bargaining, the Med-Arbiter shall order an election by secret ballot to be conducted by the Ministry to ascertain the freely chosen representative of the employees concerned, under such rules and regulations as the Ministry may prescribe, at which election representatives of the contending parties shall have the right to act as inspectors. The labor union receiving the majority of the valid votes cast shall be certified as the exclusive bargaining representative of the workers."

The petitioner contends that having been directly certified by the med-arbiter as the exclusive bargaining representative of the workers, it cannot now be replaced through the certification election, which was not validly called under the above provision. It stresses that the first method of choosing such representation is by direct certification and, once employed, can no longer be undone by the certification election which, as the exception to the rule, should be applied only when there is a reasonable doubt on the real choice of the laborers as their negotiating agent. In the view of the petitioner, there is no such reasonable doubt to justify reversal of the med-arbiter's order of June 6, 1986.

For its part, the private respondent invokes the support of the 168 workers who had signed the petition for certification election, including some of those who had earlier supposedly manifested their confidence in the petitioner union, and argues that such change of support demonstrates the need for the holding of a certification election as required by the said article. This election will erase once and for all reasonable doubt as to the real choice of the union that will represent the workers in the negotiation of the new collective bargaining agreement with PACEMCO, besides giving the workers the freedom to which they are entitled in making this choice.

Assuming that the original provisions of Article 257 are still applicable in this case, the Court inclines to the position taken by the private respondent as more conformable to the language and spirit of the said law. This rule precisely called for the holding of a certification election whenever there appeared to be a reasonable doubt as to whether or not the union directly certified had really been chosen by the majority of the workers as their exclusive bargaining representative. Such was the situation in the case at bar. Moreover, a certification election is a more acceptable method than direct certification, which under the provisions of the afore-mentioned article, should be resorted to only where there was no doubt that the union so certified had the full or at least the majority support of the workers.

In the instant case, we find that the manifestation made by most of the workers in favor of NAFTU was later questioned on the ground that it was obtained through the suspicious grant of a food subsidy to the signatories.[5] This was denied by the petitioner, which claimed that the said manifestation was spontaneous and voluntary. At any rate, whether true or not, the charge generated the reasonable doubt that justified the med-arbiter in reversing his previous direct certification of the petitioner and in authorizing the holding of a certification election instead.

It is noteworthy that since this case arose in 1986, an important change has been made in Article 257. By virtue of Executive Order No. 111, which became effective on March 4, 1987, the direct certification originally allowed in this article has apparently been discontinued as a method of selecting the exclusive bargaining agent of the workers. This amendment affirms the superiority of the certification election over the direct certification which, assuming it was validly made in favor of the petitioner in 1986, is no longer available to it now under the change in the said provision. The new rule as mended by the executive order now reads as follows:

“ART. 256. Representation issues on organized establishments. – In organized establishments, when a petition questioning the majority status of the incumbent bargaining agent is filed before the Ministry within the sixty-day period before the expiration of the collective bargaining agreement, the Med-Arbiter shall automatically order an election by secret ballot to ascertain the will of the employees in the appropriate bargaining unit. To have a valid election, at least a majority of all eligible voters in the unit must have cast their votes. The labor union receiving the majority of the valid votes cast shall be certified as the exclusive bargaining agent of all the workers in the unit. When an election which provides for three or more choices results in no choice receiving a majority of the valid cast, a run-off election shall be conducted between the choices receiving the two highest number of votes.”

Additionally, the record discloses that the certification election ordered by the med-arbiter and sustained by the

Bureau of Labor Relations was actually held on March 9, 1987, resulting in the victory of private respondent SPFL.[6] Despite notices duly received by it, the petitioner did not attend the pre-election conferences and did not participate in the said election after its motion to reset it was denied. It now says the election should not have been held because this petition was pending with the Court, although we had not issued any restraining order. It assumes too much, of course. In any event, after it was ascertained that the SPFL had obtained 201 of the 212 votes cast at the certification election, it was accordingly certified by the public respondent as the exclusive bargaining agent of the workers. As such, it thereafter negotiated and finally concluded a collective bargaining agreement with PACEMCO on September 15, 1987, which contract is now in force.[7] This is a fait accompli that has rendered this case moot and academic.

It remains to stress, as we have repeatedly declared in earlier decisions, that the certification election is the most democratic and expeditious method by which the laborers can freely determine the union that shall act as their representative in their dealings with the establishment where they are working. Any union sure of the support of the workers should have no reason to resist the holding of a certification election where it can expect a vote of confidence from them for its efforts and ability to improve their interests.

WHEREFORE, the petition is DISMISSED, with costs against the petitioner.

SO ORDERED.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 29-30.

[2] Ibid., pp. 42-43.

[3] Id., pp. 42-45.

[4] Id., pp. 61-63.

[5] Id., pp. 36-37.

[6] Id., p. 161.

[7] Id., pp. 116-130.

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