

**PHILIPPINE AIRLINES, INC., PETITIONER, VS. ALBERTO SANTOS, JR.,
HOUDIEL MAGADIA, GILBERT ANTONIO, REGINO DURAN,
PHILIPPINE AIRLINES EMPLOYEES ASSOCIATION, AND THE
NATIONAL LABOR...**

G.R. No. 77875. February 04, 1993

Ponente: REGALADO, J.

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REGALADO, J.:

The instant petition for certiorari seeks to set aside the decision of the National Labor Relations Commission (NLRC) in NLRC Case No. 4-1206-85, promulgated on December 11, 1986,[1] containing the following disposition:

"WHEREFORE, in view of the foregoing consideration, the Decision appealed from is set aside and another one entered, declaring the suspension of complainants to be illegal and consequently, respondent PAL is directed to pay complainants their salaries corresponding to the respective period(s) of their suspension, and to delete the disciplinary action from Complainants' service records." [2]

These material facts recited in the basic petition are virtually undisputed and we reproduce the same hereunder:

"1. Individual respondents are all Port Stewards of Catering Sub-Department, Passenger Services Department of petitioner. Their duties and responsibilities, among others, are:

'Prepares meal orders and check-lists, setting up standard equipment in accordance with the requirements of the type of service for each flight; skiing, binning and inventorying of Commissary supplies and equipment.'

"2. On various occasions, several deductions were made from their salary. The deductions represented losses of inventoried items charged to them for mishandling of company properties x x x which respondents resented. Such that on August 21, 1984, individual respondents, represented by the union, made a formal notice regarding the deductions to petitioner thru Mr. Reynaldo Abad, Manager for Catering. x x x

"3. As there was no action taken on said representation, private respondents filed a formal grievance on November 4, 1984 pursuant to the grievance machinery Step 1 of the Collective Bargaining Agreement between petitioner and the union. x x x The topics which the union wanted to be discussed in the said grievance were the illegal/questionable salary deductions and inventory of bonded goods and merchandise being done by catering service personnel which they believed should not be their duty.

"4. The said grievance was submitted on November 21, 1984 to the office of Mr. Reynaldo Abad, Manager for Catering, who at the time was on vacation leave. x x x.

"5. Subsequently, the grievants (individual respondents) thru the shop steward wrote a letter on December 5, 1984 addressed to the office of Mr. Abad, who was still on leave at the time, that inasmuch as no reply was made to their grievance which 'was duly received by your secretary' and considering that petitioner had only five days to resolve the grievance as provided for in the CBA, said grievance as believed by them (private respondents) was

deemed resolved in their favor. x x x.

“6. Upon Mr. Abad's return on December 7, 1984, he immediately informed the grievants and scheduled a meeting on December 12, 1984. x x x.

“7. Thereafter, the individual respondents refused to conduct inventory works. Alberto Santos, Jr. did not conduct ramp inventory on December 7, 10 and 12. Gilbert Antonio did not conduct ramp inventory on December 10. In like manner, Regino Duran and Houdiel Magadia did not conduct the same on December 10 and 12.

“8. At the grievance meeting which was attended by some union representatives, Mr. Abad resolved the grievance by denying the petition of individual respondents and adopted the position that inventory of bonded goods is part of their duty as catering service personnel, and as for the salary deductions for losses, he rationalized:

‘1. It was only proper that employees are charged for the amount due to mishandling of company property which resulted to losses. However, loss may be cost price 1/10 selling price.’

“9. As there was no ramp inventory conducted on the mentioned dates, Mr. Abad, on January 3, 1985 wrote by an inter-office memorandum addressed to the grievants, individual respondents herein, for them to explain on (sic) why no disciplinary action should be taken against them for not conducting ramp inventory. x x x.

“10. The directive was complied with x x x. The reason for not conducting ramp inventory was put forth as:

‘4) Since the grievance step 1 was not decided and no action was done by your office within 5 days from November 21, 1984, per provision of the PAL-PALEA CBA, Art. IV, Sec. 2, the grievance is deemed resolved in PALEA's favor.’

“11. Going over the Explanation, Mr. Abad found the same unsatisfactory. Thus, a penalty of suspension ranging from 7 days to 30 days were (sic) imposed depending on the number of infractions committed.[*]

“12. After the penalty of suspension was meted down, PALEA filed another grievance asking for lifting of, or at least, holding in abeyance the execution of said penalty. The said grievance was forthwith denied but the penalty of suspension with respect to respondent Santos was modified, such that his suspension which was originally from January 15, 1985 to April 5, 1985 was shortened by one month and was lifted on March 5, 1985. The union, however, made a demand for the reimbursement of the salaries of individual respondents during the period of their suspension.

“13. Petitioner stood pat (o)n the validity of the suspensions. Hence, a complaint for illegal suspension was filed before the Arbitration Branch of the Commission. x x x Labor Arbiter Ceferina J. Diosana, on March 17, 1986, ruled in favor of petitioner by dismissing the complaint. x x x. [3]

Private respondents appealed the decision of the labor arbiter to respondent commission which rendered the aforequoted decision setting aside the labor arbiter's order of dismissal. Petitioner's motion for reconsideration having been denied, it interposed the present petition.

The Court is accordingly called upon to resolve the issue of whether or not public respondent NLRC acted with grave abuse of discretion amounting to lack of jurisdiction in rendering the aforementioned decision.

Evidently basic and firmly settled is the rule that judicial review by this Court in labor cases does not go so far as to evaluate the sufficiency of the evidence upon which the labor officer or office based his or its determination, but is limited to issues of jurisdiction and grave abuse of discretion.[4] It has not been shown that respondent NLRC has unlawfully neglected the performance of an act which the law specifically enjoins it to perform as a duty or has otherwise unlawfully excluded petitioner from the exercise of a right to which it is entitled.

The instant case hinges on the interpretation of Section 2, Article IV of the PAL-PALEA Collective Bargaining Agreement (hereinafter, CBA), to wit:

"Section 2 - Processing of Grievances

x x x

STEP 1 - Any employee who believes that he has a justifiable grievance shall take the matter up with his shop steward. If the shop steward feels there is justification for taking the matter up with the Company, he shall record the grievance on the grievance form heretofore agreed upon by the parties. Two (2) copies of the grievance form properly filled, accepted, and signed shall then be presented to and discussed by the shop steward with the division head. The division head shall answer the grievance within five (5) days from the date of presentation by inserting his decision on the grievance form, signing and dating same, and returning one copy to the shop steward. If the division head fails to act within the five (5)-day regl(e)mentary period, the grievance must be resolved in favor of the aggrieved party. If the division head's decision is not appealed to Step II, the grievance shall be considered settled on the basis of the decision made, and shall not be eligible for further appeal." [5] (Emphasis ours.)

Petitioner submits that since the grievance machinery was established for both labor and management as a vehicle to thresh out whatever problems may arise in the course of their relationship, every employee is duty bound to present the matter before management and give the latter an opportunity to impose whatever corrective measure is possible. Under normal circumstances, an employee should not preempt the resolution of his grievance; rather, he has the duty to observe the status quo. [6]

Citing Section 1, Article IV of the CBA, petitioner further argues that respondent employees have the obligation, just as management has, to settle all labor disputes through friendly negotiations. Thus, Section 2 of the CBA should not be narrowly interpreted. [7] Before the prescriptive period of five days begins to run, two concurrent requirements must be met, i.e., presentment of the grievance and its discussion between the shop steward and the division head who in this case is Mr. Abad. Section 2 is not self-executing; the mere filing of the grievance does not trigger the tolling of the prescriptive period. [8]

Petitioner has sorely missed the point.

It is a fact that the sympathy of the Court is on the side of the laboring classes, not only because the Constitution imposes such sympathy, but because of the one-sided relation between labor and capital. [9] The constitutional mandate for the protection of labor is as explicit as it is demanding. The purpose is to place the workingman on an equal plane with management - with all its power and influence - in negotiating for the advancement of his interests and the defense of his rights. [10] Under the policy of social justice, the law bends over backward to accommodate the interests of the working class on the humane justification that those with less privileges in life should have more privileges in law. [11]

It is clear that the grievance was filed with Mr. Abad's secretary during his absence. [12] Under Section 2 of the CBA aforequoted, the division head shall act on the grievance within five (5) days from the date of presentation thereof, otherwise "the grievance must be resolved in favor of the aggrieved party." It is not disputed that the grievants knew that division head Reynaldo Abad was then "on leave" when they filed their grievance which was received by Abad's secretary. [13] This knowledge, however, should not prevent the application of the CBA.

On this score, respondent NLRC aptly ruled:

"x x x Based on the facts heretofore narrated, division head Reynaldo Abad had to act on the grievance of complainants within five days from 21 November 1984. Therefore, when Reynaldo Abad failed to act within the reglementary period, complainants, believing in good faith that the effect of the CBA had already set in,

cannot be blamed if they did not conduct ramp inventory for the days thereafter. In this regard, respondent PAL argued that Reynaldo Abad was on leave at the time the grievance was presented. This, however, is of no moment, for it is hard to believe that everything under Abad's authority would have to stand still during his absence from office. To be sure, it is to be expected that someone has to be left to attend to Abad's duties. Of course, this may be a product of inadvertence on the part of PAL management, but certainly, complainants should not be made to suffer the consequences.”[14]

Contrary to petitioner's submission,[15] the grievance of employees is not a matter which requires the personal act of Mr. Abad and thus could not be delegated. Petitioner could at least have assigned an officer-in-charge to look into the grievance and possibly make his recommendation to Mr. Abad. It is of no moment that Mr. Abad immediately looked into the grievance upon returning to work, for it must be remembered that the grievants are workingmen who suffered salary deductions and who rely so much on their meager income for their daily subsistence and survival. Besides, it is note-worthy that when these employees first presented their complaint on August 21, 1984, petitioner failed to act on it. It was only after a formal grievance was filed and after Mr. Abad returned to work on December 7, 1984 that petitioner decided to turn an ear to their complaints.

As respondent NLRC has pointed out, Abad's failure to act on the matter may have been due to petitioner's inadvertence,[16] but it is clearly too much of an injustice if the employees be made to bear the dire effects thereof. Much as the latter were willing to discuss their grievance with their employer, the latter closed the door to this possibility by not assigning someone else to look into the matter during Abad's absence. Thus, private respondents should not be faulted for believing that the effects of the CBA in their favor had already stepped into the controversy.

If the Court were to follow petitioner's line of reasoning, it would be easy for management to delay the resolution of labor problems, the complaints of the workers in particular, and hide under the cloak of its officers being "on leave" to avoid being caught by the 5-day deadline under the CBA. If this should be allowed, the workingmen will suffer great injustice for they will necessarily be at the mercy of their employer. That could not have been the intendment of the pertinent provision of the CBA, much less the benevolent policy underlying our labor laws.

ACCORDINGLY, on the foregoing premises, the instant petition is hereby DENIED and the assailed decision of respondent National Labor Relations Commission is AFFIRMED. This judgment is immediately executory.
SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Nocon, and Campos, Jr., JJ., concur.

[1] Per Presiding Commissioner Edna Bonto-Perez and Com-missioners Daniel M. Lucas, Jr. and Mirasol V. Corleto.

[2] Original Record, 119.

[*] Private respondents were meted the penalty of suspension without pay as follows: Alberto Santos, Jr., from January 15 to April 5, 1985 (Exh. H, Original Record, 45); Regino Duran, from January 15 to February 4, 1985 (Exh. I, *ibid.*, 46); Gilbert Antonio, from January 15 to 21, 1985 (Exh. J, *ibid.*, 47); and Houdiel Magadia, from January 15 to February 4, 1985 (Exh. K, *ibid.*, 48).

[3] Petition, 2-5; Rollo, 3-6.

[4] *Pan Pacific Industrial Sales., Inc. vs. NLRC, et al.*, 194 SCRA 633 (1991).

[5] Exhibit S; Original Record, 57.

- [6] Petition, 8; Rollo, 9.
- [7] Ibid., 8-9; Rollo, 9-10.
- [8] Ibid., 9, Rollo, 10.
- [9] Reliance Surety and Insurance Co., Inc. vs. NLRC, et al., 193 SCRA 365 (1991).
- [10] Dagupan Bus Company, Inc. vs. NLRC, et al., 191 SCRA 328 (1990).
- [11] Ditan vs. POEA, et al., 191 SCRA 823 (1990).
- [12] Exhibit E; Original Record, 42.
- [13] Original Record, 105.
- [14] Ibid., 118-119.
- [15] Petition, 9-10; Rollo, 10-11.
- [16] Original Record, 119.

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