

NATIONAL CONGRESS OF UNIONS IN THE SUGAR INDUSTRY OF THE PHILIPPINES (NACUSIP)-TUCP, PETITIONER, VS. HON. PURA FERRER-CALLEJA, IN HER CAPACITY AS DIRECTOR OF THE BUREAU OF LABOR...

G.R. No. 89609. January 27, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari seeking the nullification of the resolution issued by the respondent Director of the Bureau of Labor Relations Pura Ferrer-Calleja dated June 26, 1989 setting aside the order of the Med-Arbiter dated February 8, 1989 denying the motion to dismiss the petition and directing the conduct of a certification election among the rank and file employees or workers of the Dacongogon Sugar and Rice Milling Co. situated at Kabankalan, Negros Occidental.

The antecedent facts giving rise to the controversy at bar are as follows:

Petitioner National Congress of Unions in the Sugar Industry of the Philippines (NACUSIP-TUCP) is a legitimate national labor organization duly registered with the Department of Labor and Employment. Respondent Honorable Pura Ferrer-Calleja is impleaded in her official capacity as the Director of the Bureau of Labor Relations of the Department of Labor and Employment, while private respondent National Federation of Sugar Workers (NFSW-FGT-KMU) is a labor organization duly registered with the Department of Labor and Employment.

Dacongogon Sugar and Rice Milling Co., Inc. (Dacongogon) based in Kabankalan, Negros Occidental employs about five hundred (500) workers during milling season and about three hundred (300) on off-milling season.

On November 14, 1984, private respondent NFSW-FGT--KMU and employer Dacongogon entered into a collective bargaining agreement (CBA) for a term of three (3) years, which was to expire on November 14, 1987.

When the CBA expired, private respondent NFSW-FGT-KMU and Dacongogon negotiated for its renewal. The CBA was extended for another three (3) years with reservation to negotiate for its amendment, particularly on wage increases, hours of work, and other terms and conditions of employment.

However, a deadlock in negotiation ensued on the matter of wage increases and optional retirement. In order to obviate friction and tension, the parties agreed on a suspension to provide a cooling-off period to give them time to evaluate and further study their positions. Hence, a Labor Management Council was set up and convened, with a representative of the Department of Labor and Employment, acting as chairman, to resolve the issues.

On December 5, 1988, petitioner NACUSIP-TUCP filed a petition for direct certification or certification election among the rank and file workers of Dacongogon.

On January 27, 1989, private respondent NFSW-FGT-KMU moved to dismiss the petition on the following

grounds, to wit:

“I

The Petition was filed out of time;

“II

There is a deadlocked (sic) of CBA negotiation between forced intervenor and respondent-central." (Rollo, p. 25)

On February 6, 1989, Dacongcong filed an answer praying that the petition be dismissed.

By an order dated February 8, 1989, the Med-Arbiter denied the motion to dismiss filed by private respondent NFSW-FGT-KMU and directed the conduct of certification election among the rank and file workers of Dacongcong, the dispositive portion of which provides as follows:

"WHEREFORE, premises considered, the Motion to Dismiss the present petition is, as it is hereby DENIED. Let therefore a certification election among the rank and file employees/workers of the Dacongcong Sugar and Rice Milling Co., situated at Kabankalan, Neg. Occ., be conducted with the following choices:

"(1) National Congress of Unions in the Sugar Industry of the Philippines (NACUSIP-TUCP);

"(2) National Federation of Sugar Workers (NFSW);

"(3) No Union.

"The designated Representation Officer is hereby directed to call the parties for a pre-election conference to thresh out the mechanics of the election and to conduct and supervise the same within twenty (20) days from receipt by the parties of this Order. The latest payroll shall be used to determine the list of qualified voters.

"SO ORDERED." (Rollo, p. 34)

On February 9, 1989, private respondent filed a motion for reconsideration and/or appeal alleging that the Honorable Med-Arbiter misapprehended the facts and the law applicable amounting to gross incompetence. Hence, private respondent prayed that the order of the Med-Arbiter be set aside and the motion to dismiss be reconsidered.

On February 27, 1989, petitioner filed its opposition to the motion for reconsideration praying that the motion for reconsideration and/or appeal be denied for lack of merit.

On June 26, 1989, respondent Director of the Bureau of Labor Relations rendered a resolution reversing the order of the Med-Arbiter, to wit:

"WHEREFORE, premises considered, the Order of the Med-Arbiter dated 8 February 1989 is hereby set aside and vacated, and a new one issued dismissing the above-entitled petition for being filed out of time.

SO ORDERED." (Rollo p. 46)

Hence, this petition raising four (4) issues, to wit:

"I. RESPONDENT HON. PURA FERRER-CALLEJA, IN HER CAPACITY AS DIRECTOR OF THE BUREAU OF LABOR RELATIONS, COMMITTED GRAVE ABUSE OF DISCRETION IN RENDERING HER RESOLUTION DATED 26 JUNE 1989 REVERSING THE ORDER DATED FEBRUARY 8, 1989 OF MED-ARBITER FELIZARDO SERAPIO.

"II. THAT THE AFORESAID RESOLUTION DATED 26 JUNE 1989 OF RESPONDENT PURA

FERRER-CALLEJA IS CONTRARY TO LAW AND JURISPRUDENCE.

"III. THAT THE AFORESAID RESOLUTION DATED 26 JUNE 1989 OF RESPONDENT DIRECTOR PURA FERRER-CALLEJA DENIES THE RANK AND FILE EMPLOYEES OF THE DACONGCOGON SUGAR & RICE MILLING COMPANY, AND THE HEREIN PETITIONER NACUSIP-TUCP, THEIR LEGAL AND CONSTITUTIONAL RIGHTS.

"IV. THAT RESPONDENT DIRECTOR PURA FERRER-CALLEJA, IN RENDERING HER SAID RESOLUTION DATED 26 JUNE 1989 WAS BIASED AGAINST PETITIONER NACUSIP-TUCP." (Rollo, p. 2).

The controversy boils down to the sole issue of whether or not a petition for certification election may be filed after the 60-day freedom period.

Petitioner maintains that respondent Director Calleja committed grave abuse of discretion amounting to excess of jurisdiction in rendering the resolution dated June 26, 1989 setting aside, vacating and reversing the order dated February 8, 1989 of Med-Arbiter Serapio, in the following manner:

"1) By setting aside and vacating the aforesaid Order dated February 8, 1989 of Med-Arbiter Felizardo Serapio and in effect dismissing the Petition for Direct or Certification Election of Petitioner NACUSIP-TUCP (Annex 'A' hereof) without strong valid, legal and factual basis;

"2) by giving a very strict and limited interpretation of the provisions of Section 6, Rule V, Book V of the Implementing Rules Regulations of the Labor Code, as amended, knowing, as she does, that the Labor Code, being a social legislation, should be liberally interpreted to afford the workers the opportunity to exercise their legitimate legal and constitutional rights to self-organization and to free collective bargaining;

"3) by issuing her questioned Resolution of June 26, 1989 knowing fully well that upon the effectivity of Rep. Act No. 6715 on 21 March 1989 she had no longer any appellate powers over decisions of Med-Arbiters in cases of representation issues or certification elections;

"4.) by ignoring intentionally the applicable ruling of the Honorable Supreme Court in the case of *Kapisanan ng Mga Manggagawa sa La Suerte-FOITAF vs. Noriel*, L-45475, June 20, 1977;

"5.) by clearly failing to appreciate the significance (sic) of the fact that for more than four (4) years there has been no certification election involving the rank and file workers of the Company; and,

"6) by frustrating the legitimate desire and will of the workers of the Company to determine their sole and exclusive collective bargaining representative through secret balloting." (Rollo, pp. 9-10)

However, the public respondent through the Solicitor General stresses that the petition for certification election was filed out of time. The records of the CBA at the Collective Agreements Division (CAD) of the Bureau of Labor Relations show that the CBA between Dacongcogon and private respondent NFSW-FGT-KMU had expired on November 14, 1987, hence, the petition for certification election was filed too late, that is, a period of more than one (1) year after the CBA expired.

The public respondent maintains that Section 6 of the Rules Implementing Executive Order No. 111 commands that the petition for certification election must be filed within the last sixty (60) days of the CBA and further reiterates and warns that any petition filed outside the 60-day freedom period "shall be dismissed outright." Moreover, Section 3, Rule V, Book V of the Rules Implementing the Labor Code enjoins the filing of a representation question, if before a petition for certification election is filed, a bargaining deadlock to which the bargaining agent is a party is submitted for conciliation or arbitration.

Finally, the public respondent emphasizes that respondent Director has jurisdiction to entertain the motion for

reconsideration interposed by respondent union from the order of the Med-Arbiter directing a certification election. Public respondent contends that Section 25 of Republic Act No. 6715 is not applicable, "(f)irstly, there is as yet no rule or regulation established by the Secretary for the conduct of elections among the rank and file of employer Dacongogon; (s)econdly, even the mechanics of the election which had to be first laid out, as directed in the Order dated February 8, 1989 of the Med Arbiter, was aborted by the appeal therefrom interposed by respondent union; and (t)hirdly, petitioner is estopped to question the jurisdiction of respondent Director after it filed its opposition to respondent union's Motion for Reconsideration (Annex 'F,' Petition) and without, as will be seen, in any way assailing such jurisdiction. xxx." (Rollo, p. 66)

We find the petition devoid of merit.

A careful perusal of Rule V, Section 6, Book V of the Rules Implementing the Labor Code, as amended by the rules implementing Executive Order No. 111 provides that:

"Section 6. Procedure - x x x

"In a petition involving an organized establishment or enterprise where the majority status of the incumbent collective bargaining union is questioned by a legitimate labor organization, the Med-Arbiter shall immediately order the conduct of a certification election if the petition is filed during the last sixty (60) days of the collective bargaining agreement. Any petition filed before or after the sixty-day freedom period shall be dismissed outright.

"The sixty-day freedom period based on the original collective bargaining agreement shall not be affected by any amendment, extension or renewal of the collective bargaining agreement for purposes of certification election.

"x x x x x."

The clear mandate of the aforequoted section is that the petition for certification election filed by the petitioner NACUSIP-TUCP should be dismissed outright, having been filed outside the 60-day freedom period or a period of more than one (1) year after the CBA expired.

It is a rule in this jurisdiction that only a certified collective bargaining agreement - i.e., an agreement duly certified by the BLR may serve as a bar to certification elections. (Philippine Association of Free Labor Unions (PAFLU) v. Estrella, G.R. No. 45323, February 20, 1989, 170 SCRA 378, 382) It is noteworthy that the Bureau of Labor Relations duly certified the November 14, 1984 collective bargaining agreement. Hence, the contract-bar rule as embodied in Section 3, Rule V, Book V of the rules implementing the Labor Code is applicable.

This rule simply provides that a petition for certification election or a motion for intervention can only be entertained within sixty days prior to the expiry date of an existing collective bargaining agreement. Otherwise put, the rule prohibits the filing of a petition for certification election during the existence of a collective bargaining agreement except within the freedom period, as it is called, when the said agreement is about to expire. The purpose, obviously, is to ensure stability in the relationships of the workers and the management by preventing frequent modifications of any collective bargaining agreement earlier entered into by them in good faith and for the stipulated original period. (Associated Labor Unions (ALU-TUCP) v. Trajano, G.R. No. 77539, April 12, 1989, 172 SCRA 49, 57 citing Associated Trade Unions (ATU) v. Trajano, G.R. No. L-75321, 20 June 1988, 162 SCRA 318, 322-323)

Anent the petitioner's contention that since the expiration of the CBA in 1987 private respondent NFSW-FGT-KMU and Dacongogon had not concluded a new CBA, We need only to stress what was held in the case of Lopez Sugar Corporation v. Federation of Free Workers, Philippine Labor Union Association (G.R. No.

75700-01, 30 August 1990, 189 SCRA 179, 191) quoting Article 253 of the Labor Code that "(i)t shall be the duty of both parties to keep the status quo and to continue in full force and effect the terms and conditions of the existing agreement during the 60-day period and/or until a new agreement is reached by the parties." Despite the lapse of the formal effectivity of the CBA the law still considers the same as continuing in force and effect until a new CBA shall have been validly executed. Hence, the contract bar rule still applies.

Besides, it should be emphasized that Dacongogon, in its answer stated that the CBA was extended for another three (3) years and that the deadlock was submitted to the Labor Management Council.

All premises considered, the Court is convinced that the respondent Director of the Bureau of Labor Relations did not commit grave abuse of discretion in reversing the order of the Med-Arbiter.

ACCORDINGLY, the petition is DENIED and the resolution of the respondent Director of the Bureau of Labor Relations is hereby AFFIRMED.

SO ORDERED.

Narvasa, C.J., Cruz, and Grino-Aquino, JJ., concur.

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