

**PROGRESIBONG SAMAHAN NG MANGGAGAWA SA ITM (PSM-ITM),
ERASMO PALOMATA, ROBERTO CRUZ, LETICIA OXALLES,
SALVACION BAUTISTA, FERNANDO DEL AGUA, AND PRESCILLA
CASTILLO, PETITIONERS, ...**

G.R. No. 92397. August 30, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

Once again the validity of the dismissal of union officers arising from a strike is brought to the attention of this Court.

On September 11, 1989, the petitioner union filed a notice of strike against the private respondent citing the following grounds:

1. Violation of CBA;
2. Dismissal of Active Union Members;
3. Indefinite Force (sic) Leave;
4. Non-remittance of SSS premiums and amortizations.

Several conciliation conferences were conducted by the Regional Branch No. 3 of the National Conciliation and Mediation Board (NCMB-RB-III) aimed at effecting an amicable settlement between the parties. All these efforts proved futile.

Meanwhile, on September 15, 1989, petitioner union staged a mass protest against private respondent alleging management's failure to release salaries of its workers. After several hours they returned to work.

On September 22, 1989, private respondent filed a petition to declare the September 15, 1989 mass protest illegal before the Regional Arbitration Branch No. 38, the National Labor Relations Commission (NLRC), docketed as NLRC RAB-III-09-1163-89.

On October 5, 1989, the petitioner union amended its notice of strike and alleged other issues. Private respondent in a manifestation reiterated the relief prayed for in the petition of September 22, 1989.

On October 26, 1989, the petitioner union staged a strike. They held picket lines and prevented, inter alia, company vehicles from going in and out of the company premises as well as non-union employees of private respondent.

On November 9, 1989, acting on a petition for injunction filed by private respondent docketed as Case No. 2012, the Third Division of the NLRC granted a temporary restraining order enjoining petitioner union from picketing the entrance way with its pickets and human blockades, blocking the egress and ingress to private respondent's

premises, and the use of threat or coercion or any unlawful obstruction. Nevertheless, petitioner union continued with its picket.

On December 27, 1989, labor arbiter Oswaldo B. Lorenzo rendered a decision in NLRC Case No. RAB-III-09-1163-89 the dispositive part of which reads:

"WHEREFORE, this Office finds the strike called by Respondent Union on 15 September 1989 illegal. Accordingly, individual respondents having led that strike, are deemed to have lost their employment status.

The charges against the unnamed Board Members of PSM-ITM are hereby ordered DISMISSED."[1]

On January 18, 1990, the NLRC Third Division granted the injunction prayed for by the private respondent in said case.

On January 22, 1990, petitioner union lifted its picket lines at private respondent's premises.

Thereafter, on January 26, 1990, the Secretary of Labor issued an order the relevant portion of which reads as follows:

"On December 27, 1989, NLRC-RAB-III, promulgated a decision on the September 22, 1989 petition of the company the dispositive portion of which reads:

WHEREFORE, this Office finds the strike called by the Respondent Union of 15 September 1989, illegal. Accordingly, individual respondents having led the strike, are deemed to have lost their employment status.

x x x

Imperial Textile Mills, Inc. is engaged in an undertaking affected with public interest. The company is one of the largest garment manufacturers and exporters. Moreover, it employs more than 1,500 workers WHO ARE FULLY DEPENDENT ON THEIR LIVELIHOOD AND THAT OF THEIR RESPECTIVE FAMILIES ON THE CONTINUED OPERATION OF THE FIRM.

A PROLONGED WORK STOPPAGE at the Imperial Textile Mills, Inc. would not only endanger the employment and livelihood of the more than 1,500 workers and their families and those directly or indirectly dependent on them for support. Such a WORK STOPPAGE would likewise have an adverse effect on the foreign exchange earnings vital to the nation's economic recovery.

At this point in time when a state of national emergency has been declared throughout the Philippines, it is the OVERRIDING CONCERN OF THIS OFFICE TO AVERT THE OCCURRENCE OF PROLONGED WORK STOPPAGES which impair the operations of among others, businesses affected with public interest. (Capitalization ours).

WHEREFORE, ABOVE PREMISES CONSIDERED, this Office hereby CERTIFIES the entire labor dispute at the Imperial Textile Mills, Inc. to the National Labor Relations Commission for compulsory arbitration.

In line with this certification, workers of the company are hereby directed to lift their picket and return to work within twenty-four (24) hours from receipt of this Order under the same terms and conditions prevailing prior to the work stoppage EXCEPT THOSE WHOSE EMPLOYMENT HAS BEEN TERMINATED BY VIRTUE OF THE DECISION RENDERED IN NLRC-RAB-III CASE NO. 09-1133-89 NAMELY: ERASMO PALOMATA, ROBERTO CRUZ, LETICIA OXALLES, SALVACION BAUTISTA, FERNANDO DEL AGUA AND PRESCILLA CASTILLO.

x x x."[2]

On February 2, 1990, the individual petitioners filed a motion for reconsideration of the said order. Because of

said order they were refused entry by private respondent and cannot report for work. On March 6, 1990, the Secretary of Labor issued an order denying the said motion for reconsideration.

Hence, this petition for certiorari wherein the petitioners raised the following issues:

"WHETHER OR NOT HONORABLE SECRETARY OF LABOR AND EMPLOYMENT GRAVELY ABUSED HIS DISCRETION IN EXCLUDING IN THE RETURN TO WORK ORDER THE SIX (6) OFFICERS OF THE PETITIONER UNION NAMELY ERASMO PALOMATA, ROBERTO CRUZ, LETICIA OXALLES, SALVACION BAUTISTA, FERNANDO DEL AGUA AND PRESCILLA CASTILLO, CONSIDERING THAT THE DECISION (ANNEX D) STATING THAT INDIVIDUAL RESPONDENTS ARE DEEMED TO HAVE LOST THEIR EMPLOYMENT STATUS IS STILL PENDING APPEAL.

I

WHETHER OR NOT THE SUBJECT ORDER (ANNEX "C") HAS NO FACTUAL AND LEGAL FOUNDATION AND INFRINGES THE CONSTITUTIONAL RIGHTS OF THE INDIVIDUAL PETITIONERS TO SECURITY OF TENURE, PROTECTION TO LABOR, SELF-ORGANIZATION AND DUE PROCESS."[3]

which may be synthesized to the simple issue of validity of the separation from the service of individual petitioners.

The main thrust of the petition is that there is no factual basis for the private respondent to include in the return-to-work order the separation from the service of said petitioners. They contend that the decision of the NLRC RAB-III which covered the removal of petitioners from employment was still due to be appealed by them and was in fact appealed by them.

The petition is devoid of merit. While it is true that the said decision dated December 27, 1989 arising from the mass protest of a few hours that was staged by petitioner union on September 15, 1989 was appealed by petitioners and is pending consideration, it was overtaken by the subsequent events precipitated by the strike that was staged by petitioner union on October 26, 1989 which they continued up to January 21, 1990 despite the restraining order that the NLRC issued, thus, obstructing the operations of the private respondent's business. Before the return-to-work order was issued by public respondent, long and painstaking conciliation efforts were made but failed.

Moreover, at the time the subject order was issued, the nation was in a state of national emergency due to a proclamation that was promulgated by President Aquino in view of the aborted December 1, 1989 coup d' etat. This was another compelling consideration for the return-to-work order.

Further, it cannot be denied that the private respondent is engaged in an undertaking affected with public interest being one of the largest garment manufacturers and exporters in the country. The long work stoppage and negotiation meant enormous loss of foreign exchange so much needed in the economic recovery of the country as it already suffered heavily due to the attempted coup d' etat. The mass protest that was staged by petitioner could not have materialized without the leadership of this individual petitioners. These refusal of petitioner union to respect the restraining order issued by the NLRC can be attributed to petitioners who are the officers of petitioner union.

When, therefore, the Secretary of Labor issued the return-to-work order dated January 26, 1990, he considered not only the work stoppage that was staged by petitioner union on September 15, 1989 but also the subsequent mass protest and strike that they staged from October 26, 1989 up to the time they returned to work on January 22,

1990. For these acts of the petitioners who are leaders of petitioner union obviously inimical to the national interest the Secretary of Labor properly and lawfully sustained and upheld their separation from the service and their exclusion from the return-to-work order.

They cannot claim denial of due process because there were long conciliation efforts made towards the arbitration of the dispute wherein they participated. In their motion for reconsideration they also reiterated their position on the matter.

WHEREFORE, the petition is dismissed as it has not been shown that public respondent committed a grave abuse of discretion in issuing the questioned orders dated January 26, 1990 and March 6, 1990.

SO ORDERED.

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

[1] Page 26, Rollo; Annex D to petition.

[2] Page 20, Rollo; Annex C to the petition.

[3] Pages 6-7, Rollo.

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