

SEMIRARA COAL CORPORATION, PETITIONER, VS. HON. SECRETARY OF LABOR, SEMIRARA COAL CORPORATION SUPERVISORY UNION (SECCSUN) AND SEMIRARA COAL CORPORATION UNION OF NON-MANAGERIAL E...

G.R. No. 95405. June 29, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

Before the Court is a Petition for Certiorari with prayer for the issuance of a Temporary Restraining Order and/or Preliminary Injunction, seeking to annul the Decision[1] and affirmatory Orders[2] of the Secretary of Labor which set aside the Order[3] of the Med-Arbiter dated April 18, 1990.

The petitioner, Semirara Coal Corporation, prays for the reinstatement of the Order of the Med-Arbiter which excluded the members of Semirara Coal Corporation Supervisory Union (SECCSUN) allegedly performing a managerial function, from participating in the certification election among the petitioner's supervisory employees.

On February 13, 1989, the Court issued a Temporary Restraining Order,[4] enjoining the respondents from proceeding with the pre-election conference and/or certification election scheduled for February 15, 1991.

The antecedent facts that matter are as follows:

On January 13, 1989, respondent Semirara Corporation Union of Non-Managerial Employees (SCCUNME) filed a petition for certification election among the non-managerial (supervisors and Junior staff) employees of the bargaining unit consisting, more or less, of one hundred forty (140) employees.

On March 21, 1989, Republic Act 6715, amending the Labor Code, took effect. Among others, it amended Article 212 (m) and Article 245 of the Labor Code by creating a new group of employees - the supervisory employees - separate and distinct from the managerial employees.

Meanwhile, the petition for certification election was granted. Accordingly, on May 29, 1989 the Med-Arbiter issued an Order directing the conduct of a certification election among the non-managerial (supervisors and junior staff) employees of the petitioner with the following choices:

- Semirara Coal Corporation Union of Non-Managerial Employees (SCCUNME);
- No Union.[5]

On June 23, 1989, petitioner appealed from the aforesaid Order on the sole ground that the "Honorable Med-Arbiter erred in considering the petitioner union as vested with legal personality to seek certification election as the exclusive bargaining agent of the corporations supervisory employees." [6]

In his Resolution of August 3, 1989, the Secretary of Labor dismissed the appeal of petitioner and directed the immediate conduct of a certification election. Petitioner's motion for reconsideration of the said resolution was

denied.

On December 6, 1989, respondent Semirara Coal Corporation of Supervisory Union (SECCSUN), which was granted a certificate of registration on September 11, 1989, filed an Ex-Parte motion for intervention in the certification election sought by respondent SCCUNME.[7]

During the hearing of the petition for certification election on January 4, 1990, the private respondents, SCCNME, SECCSUN, and the petitioner voluntarily agreed to hold a consent election.[8]

However, on or about February 2, 1990, petitioner, instead of submitting the required list of eligible voters pursuant to a prior undertaking, sent a telegram to Med-Arbiter Claudio Sigaya, Jr., informing the latter that petitioner could not submit a list of non-managerial supervisors since all the supervisors are performing managerial functions. The pertinent portion of said telegram stated:

"Further to our communication earlier made to your Office to the effect that we can not submit a list of non managerial supervisors because all of our supervisors are performing managerial function based on following definition of R.A. 6715 x x x"[9]

On February 5, 1990, private respondent SCCUNME filed a Manifestation and Motion withdrawing its consent to the intervention of private respondent SECCSUN.

On the same date, petitioner instead of submitting the list of eligible voters requested by the Med-arbiter, filed a Manifestation and Motion alleging that its supervisors are not eligible to participate in the certification election because they are managerial employees within the contemplation of Section 4 (o) of the Rules and Regulation Implementing Republic Act No. 6715. In so claiming, petitioner presented a copy of a company memorandum[10] dated August 29, 1988, allegedly vesting in the supervisory employees of petitioner the power to discipline the subordinates. To support its portion on the matter, the petitioner likewise submitted samples of the standard form of the company disciplinary memorandum.

In its Order, dated April 18, 1990, Med-Arbiter Claudio M. Sigaya Jr. declared that the so-called supervisory employees of Semirara Coal Corporation are managerial employees and are therefore deemed ineligible to participate in a certification election.[11]

On appeal[12] by private respondent SECCSUN on May 18, 1990, the said Order was set aside by the Honorable Secretary of Labor, and declared the so-called supervisory employees as truly supervisory employees. He further ordered the inclusion of SECCSUN as one of the choices in the certification election, ruling thus:

"WHEREFORE, premises considered, the appeal of intervenor-appellant Semirara Coal Corporation Supervisory Union (SECCSUN) is hereby granted, and the Order dated 18 April 1990 is hereby set aside. In lieu thereof, a new Order is entered declaring the so-called supervisory employees of the respondent Semirara Coal Corporation as truly supervisory employees pursuant to the mandate of paragraph (m), Article 212, of the Labor Code, as amended by Republic Act No. 6715.

A certification election is hereby directed to be conducted within the context of our previous Resolution dated 3 August 1989 and 30 October 1989, with the inclusion of herein intervenor-appellant Semirara Coal Corporation Supervisory Union (SECCSUN) as one of the choices.

Let, therefore, the entire records of this case be remanded to the Regional Office of origin for the immediate conduct of the certification election aforestated subject to the usual pre-election conference.

SO ORDERED."[13]

A motion for reconsideration of the aforesaid ruling was denied by the Secretary of Labor, on August 21,

1990.[14]

On August 30, 1990, petitioner issued a memorandum, entitled "Policy Empowering All the Junior Staffs/Supervisors In The Company To Discipline The Erring Employees Under Them." [15]

On September 4, 1990, petitioner filed its Manifestation and Motion for the reversal of the Secretary's Decision of July 30, 1990, as well as the affirmatory Order dated August 21, 1990. Petitioner manifested that "[R]ecently, on 30 August 1990, the Company issued a Memorandum captioned 'Policy Empowering All the Supervisors in the company to Discipline the Erring Employees Directly Under Them,' which unequivocally vested upon the supervisors the power to discipline employees. It has already taken effect." [16]

On September 19, 1990, the Honorable Secretary of Labor denied [17] for lack of merit the aforementioned Manifestation and Motion of petitioner.

With the denial of its Manifestation and Motion, petitioner found its way to this court via the present petition.

The petition is not impressed with merit.

The law in point is Article 212 (m) of the Labor Code, which reads:

"Managerial employee is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay off, recall, discharge, assign or discipline employees. Supervisory employees are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment. All employees not falling within any of the above definitions are considered rank and file employees for purposes of this Book." (emphasis supplied)

Are the supervisory employees of petitioner truly supervisory employees? The Med-Arbitrator and the Secretary of Labor in delving into this pivot of inquiry relied upon the: 1) April 10, 1984 Memorandum entitled "Guidelines on Disciplinary Actions;" [18] 2) August 29, 1988 Memorandum entitled "Processing of Disciplinary Action Cases;" [19] and 3) Standard Forms of the Company Disciplinary Memoranda. [20]

Pertinent portion of the Memorandum, entitled "Guidelines on Disciplinary Actions," dated April 10, 1984, addressed to all department heads/supervisors reads:

"A. PHILOSOPHY

xxx

3. The company shall take prompt and consistent disciplinary action on its erring employees. All offenses as a general rule, shall be investigated within 24 hours and shall be acted upon within three (3) working days.

4. While reporting person/s/immediate supervisor/s is/are responsible for reporting violations of the company rules and regulations, conducting preliminary investigation thereof, and making the appropriate recommendations in accordance with company rules and regulations, nevertheless all disciplinary actions should be reviewed and concurred by Personnel Manager who reserves the right and responsibility to conduct further investigation on violations committed as well as determine and administer the appropriate disciplinary action against erring employees, upon concurrence and approval of the Resident Manager. (emphasis supplied)

xxx

C. PROCEDURES

x x x

4. Recommendation

Here the immediate supervisor, after studying the facts of the case and the surrounding circumstances

recommends appropriate action based on company rules and regulations/policy/SOP.

5. Concurrences

All disciplinary actions must be concurred by the following officers in this order: Department Manager, Personnel Manager, Division Manager.

6. Approval

The disciplinary action as concurred goes for approval of the Resident Manager."

From the foregoing, it can be gleaned unerringly that the disciplinary actions of the immediate superiors are truly supervisory, the same being recommendatory in nature. Note that their findings and decisions are subject to the approval of the Personnel Manager and Resident Manager. Obviously, then, they fall into the category of supervisory employees within the contemplation of Article 212 (m) of the Labor Code, as amended by Republic Act. No. 6715.

Pertinent portion of the Company Memorandum of August 29, 1988, entitled "Processing of Disciplinary Action Cases," addressed to all Department Heads, states:

"POLICY:

To practice due process of law in enforcing company discipline.

PROCEDURES:

1. Right after an employee allegedly committed an offense, the immediate superior shall inform the erring employee in writing of the charges against him using the REQUEST FOR EXPLANATION form. This is to be accomplished in four copies. xxx

At the same time, the immediate superior fills up the COMPANY RULE DEVIATION report form. This is to be accomplished in three copies. xxx

Should the employee who is charged of the offense refuse to acknowledge the REQUEST FOR EXPLANATION form, the immediate superior shall call the attention of a steward to acknowledge receipt of the form in behalf of the employee.

2. The employee charged has three days from receipt of the REQUEST FOR EXPLANATION form to submit his written explanation to the immediate superior. If no reply is given within the three-day limit, it is construed that the employee has waived the due process requirement and is admitting his guilt.

3. In case the employee charged of the offense submits a written explanation, the immediate superior together with the HRD representatives shall conduct an investigation. During the investigation the employee charged may challenge the statement of any witness to rebut any evidence presented against him. The proceedings of the investigation must be recorded. (emphasis supplied)

4. If it is indeed proven that the employee is guilty of the offense, the appropriate penalty will be given based on the existing table of penalties for offenses. The immediate superior will fill up the CORRECTIVE MEMO form in four copies. xxx In case of suspensions Accounting Department will be duly advised and suspension dates reflected in the employee's time-sheet, time-card or location sheet.

5. As much as possible, the immediate superior shall discuss with the employee the decision made regarding the offense.

HRD will be conducting a briefing with individual department heads to ensure proper implementation of these procedures. xxx"

Petitioner has theorized that the abovesited August 29, 1988 memorandum supersedes the April 10, 1984 memorandum which expressly indicated the supervisory nature of the immediate supervisors' job. That the 1988 memorandum vested in the supervisory employees the power to discipline their subordinates is the bone of its contention. It is averred that by virtue of the August 29, 1988 memorandum, the immediate supervisors became managerial employees, and therefore, not entitled to participate in the certification election.

We are not persuaded by petitioner's stance. A conscientious scrutiny of the August 29, 1988 memorandum reveals that nothing therein alters the nature of the duty of the members of SECCSUN from supervisory to managerial. The duty to conduct a preliminary investigation with the HRD representatives, in the memorandum in question, is a mere reiteration of the same duty stated in paragraph four (4) of the April 10, 1984 company memorandum of petitioner.

As to who ultimately determines the guilt of the erring employee, the 1988 memorandum is silent. Paragraph four (4) thereof merely states that: "If it is indeed proven that the employee is guilty of the offense, the appropriate penalty will be given based on the existing table of penalties for offenses. The immediate superior will fill up the corrective memo in four copies." There is thus no sufficient basis for a conclusion that the memorandum of 1988 divested the Personnel Manager and the Resident Manager of their power to review the results of the preliminary investigation conducted by the immediate superiors. To conclude other wise would be to bargain away the mandate of the Constitution, to wit:

"Sec. 8. The right of the people, including those employed in the public and private sectors, to form unions x x x for purposes not contrary to law shall not be abridged." [21]

"Sec. 3. The state shall afford full protection to labor... x x x

It shall guarantee the rights of workers to self-organization, collective bargaining, and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. x x x" [22]

The claim of petitioner that the Memorandum of 1988 lodged on the supervisors the ultimate prerogative to determine the guilt of the erring employee and to impose the penalty on him without an express grant of such power in the same memorandum relied upon by the petitioner, creates a doubt as to the true status of the employees in the case. This doubt militates against petitioner's stand. Time honored is the rule that in interpreting the Constitution and labor laws or rules and regulations implementing the constitutional mandate, the Court has always adopted the liberal approach which favors the exercise of labor rights. [23]

In the case at bar, the members of SECCSUN should be declared as they are so referred - supervisory employees. This finding accords with the intention of the lawmakers in enacting Republic Act 6715 - to revive the existence of the nomenclature of employees referred to as "supervisory employees" and their corresponding right to unionize among themselves. Article 245 of the Labor Code, as amended by Republic Act 6715, states:

"Art. 245. Ineligibility of managerial employees to join any labor organization; right of supervisory employees.
- Managerial employees are not eligible to join, assist or form any labor organization. Supervisory employees shall not be eligible for membership in labor organization of the rank-and-file employees but may join, assist or form separate labor organizations of their own." (emphasis supplied)

It is indeed decisively clear that the existence of supervisory employees and their corresponding right to organize under the Industrial Peace Act as been revived under the amendment so introduced by Republic Act 6715. [24]

This noble objective of the lawmakers should not be defeated. To declare the members of SECCSUN as managerial employees amidst the doubtful ratiocination by petitioner would be to deprive them of their constitutional right to self-organization.

To substantiate petitioner's submission that the August 29, 1988 memorandum (which allegedly vested in the supervisory employees the power to discipline their subordinates) has actually been implemented by the petitioner, copies of the standard form of the company disciplinary memoranda were presented. A sample[25] of said memoranda showing the disciplinary sanction imposed by E. A. Lapinig in his capacity as "immediate supervisor" has been attached to the petition. Pertinent portion thereof, reads:

"In view of the above and in accordance with rules, we shall impose on you the following penalty:

☒ REPRIMAND for committing the stated infraction.

☐ SUSPENSION for _____ days without pay commencing on _____

to _____

☐ _____

Please be informed that this is your _____ offense. Repetition of the same will subject you to a graver penalty if not dismissal."

E. A. LAPINIG

Immediate Supervisor

The aforequoted memorandum fails to convince the court that the power to discipline erring employees is vested in their immediate supervisor. True it is, the immediate supervisor's signature appears on the said memorandum. But other than this, it cannot further be inferred therefrom that it is the immediate supervisor's sole power to decide the fate of erring employees and to impose on them the prescribed penalty. That the immediate supervisors' disciplinary action is not subject to review by the Personnel Manager and the Resident Manager is not provided by the aforestated disciplinary memorandum.

As regards the July 30, 1990 memorandum, entitled "Policy Empowering All The Junior Staff/Supervisors In The Company To Discipline The Erring Employees Under Them," the court agrees with the following observation of the Solicitor General, to wit:

"It will be noted that if indeed it were true, as claimed by petitioner, that is memorandum of 10 April 1984 had already been repealed by that of 29 August 1988, why should there be a need for its (memorandum of 10 April 1984) express repeal by another memorandum (of 30 August 1990)?

Moreover, even the title/subject of the latest memorandum ("Policy Empowering All The Junior Staff/Supervisors In The Company To Discipline The Erring Employees Under Them") indicates petitioner's tacit admission of the fact that prior to 30 August 1990 memorandum - and therefore even at the time of the questioned decision of the Secretary of Labor on 30 July 1990 - the company supervisors were not vested with the power to discipline"[26]

WHEREFORE, the petition is hereby DISMISSED for lack of merit; the Temporary Restraining Order of February 13, 1989 LIFTED and the July 30, 1990 Decision of the Honorable Secretary of Labor and affirmatory Orders, dated August 21, 1990 and September 19, 1990, respectively, AFFIRMED in toto. No pronouncement as to costs.

SO ORDERED.

Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

Romero, (Chairman), J., abroad on official business.

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- [1] Dated July 30, 1990; Rollo, pp. 36-45.
- [2] Dated August 21, 1990; Rollo, pp. 50-53.
- [3] Dated April 18, 1990; Rollo, pp. 20-25.
- [4] Rollo, p. 97.
- [5] Decision; Rollo, p. 37.
- [6] Rollo, p. 37.
- [7] Rollo, p. 38.
- [8] Ibid.
- [9] Rollo, p. 181
- [10] Rollo, pp. 32-33.
- [11] Rollo, p. 25.
- [12] Rollo, pp. 162-166.
- [13] Rollo, pp. 44-45.
- [14] Rollo, pp. 47-48.
- [15] Rollo, pp. 159-161.
- [16] Rollo, pp. 185.
- [17] Rollo, pp. 50-53.
- [18] Rollo, pp. 26-31.
- [19] Rollo, pp. 32-33.
- [20] Sample at Rollo, p. 34.
- [21] Sec. 8, Art. III, 1987 Constitution.
- [22] Sec. 3, Art. XIII, 1987 Constitution.
- [23] Adamson vs. CIR, 127 SCRA 268, p. 272.
- [24] Pagkakaisa na mga Manggagawa sa Triumph International vs. Pura Ferrer Calleja, January 17, 1990, 181 SCRA 119.
- [25] Rollo, p. 34.
- [26] Rollo, pp. 202-203.

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