

HERCULES INDUSTRIES, INC. PETITIONER, VS. THE SECRETARY OF LABOR, UNDERSECRETARY BIENVENIDO E. LAQUESMA, MED-ARBITER MELCHOR S. LIM AND THE NATIONAL FEDERATION OF LABOR, RESPOND...

G.R. No. 96255. September 18, 1992

Ponente: GRINO-AQUINO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-96255/>

GRINO-AQUINO, J.:

This petition for certiorari* seeks to set aside the resolution** dated September 17, 1990 of the Undersecretary of Labor in the case entitled, "National Federation of Labor vs. Hercules Industries, Inc." denying the herein petitioner's appeal from respondent Med-Arbiter's Order dated May 25, 1990 declaring the National Federation of Labor (NFL) as the sole and exclusive bargaining agent of the rank and file workers/employees of Hercules Industries, Inc.

Hercules Industries, Inc., herein petitioner, is a corporation duly registered under Philippine laws which employs more or less one hundred eighty (180) workers.

On July 30, 1987, private respondent National Federation of Labor (NFL), a legitimate labor federation, filed a petition for certification election alleging that the existing collective bargaining agreement would expire in August, 1987 and that it enjoys the support of more than twenty per cent (20%) of the rank and file employees in the bargaining unit.

On August 21, 1987, by agreement of the parties, the Med-Arbiter issued an order for the conduct of a certification election with the following choices:

- (1) National Federation of Labor (NFL);
- (2) Hercules Employees Labor Union (HELU); and
- (3) No Union.

On September 21, 1987, a pre-election conference was conducted. The parties, however, could not agree on the list of qualified voters who would participate in the election. Specifically, Hercules Industries, Inc. charged that the list included ninety eight (98) scabs; sixteen (16) capatazes; eight (8) security guards; and nine (9) managerial employees.

On October 26, 1987, the Med-Arbiter issued an order, the dispositive portion of which reads:

"WHEREFORE, considering the foregoing, judgment should be, as it is hereby promulgated, ordering the immediate conduct of the Certification Election within fifteen (15) days from date hereof, at the premises of the Hercules Industries, Inc., Laih, Siay, Zamboanga del Sur, with all the regular rank and file workers appearing in the payroll of July, 1987, and the strikers, who have not executed 'Quitclaim' and voluntarily accepted separation pay, are eligible participants in the Certification Election, except those that are herein

below expressly and categorically excluded by virtue of their being classified as managerial employees, legally separated and barred under the contemplation of law.

"A. MANAGERIAL EMPLOYEES

(Excluded)

"xxx xxx xxx

"B. SECURITY FORCE DEPARTMENT

(Excluded)

"xxx xxx xxx

"C. STRIKES EMPLOYEES WHO HAVE EXECUTED DEED OF QUITCLAIM AND VOLUNTARILY ACCEPTED SEPARATION PAY.

(Excluded)

"xxx xxx xxx

"The representation officer-designate is hereby ordered to post immediately within five (5) days prior to the date of election the notices of Certification Election together with the master list of eligible voters in conspicuous places at the premises of the respondent." (pp. 27-28, Rollo.)

On November 4, 1987, NFL appealed the order to the Bureau of Labor Relations (BLR Case No. A-1-10-88 LRD Case No. 014-87) on the following grounds:

"1. The Med-Arbiter erred in unqualifiedly accepting all the names appearing in the July 1987 payroll as eligible voters and in allowing the 98 contract replacement workers to vote; and

"2. The Med-Arbiter erred in disregarding the fact that an earlier order for certification election had already been handed down and that the workers were on strike." (p. 29, Rollo.)

Pending the resolution of the NFL's appeal, a certification election was conducted on November 7, 1990.

On January 6, 1988, BLR Director Pura Ferrer--Calleja of the DOLE rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, the appeal is hereby granted and the certification election held on 7 November 1987 declared null and void.

"Let a new certification election among the rank and file workers of Hercules Industries, Inc. be held. The payroll of July 1987 excluding the [ninety eight] 98 scab replacement, shall be the basis of the voters' list." (p. 32, Rollo.)

On April 4, 1990, a pre-election conference attended by the management of Hercules Industries, Inc. and NFL's representatives was held at the Department of Labor and Employment Regional Office in Zamboanga City. The NFL asked that a certification election be immediately scheduled on May 4, 1990 at 9:00 a.m. to be held in the Barangay Hall, Bato, Siay, Zamboanga del Sur.

Accordingly, a certification election was held on May 4, 1990 with the following results:

"1. NATIONAL FEDERATION OF LABOR - - - - - 89 Votes

“2. HERCULES LUMBER & EMPLOYEES LABOR UNION - - - - - 0 (Zero)

“3. MANAGEMENT (NO UNION) - - - - - 0 (Zero)

“4. SPOILED/INVALID VOTES - - - - - 2 (Votes)

TOTAL VOTES CAST: 91 Votes”

(p. 188, Rollo.)

On May 25, 1990, Med-Arbiter Melchor S. Lim issued a resolution declaring and certifying the National Federation of Labor as the sole and exclusive bargaining agent of the rank and file employees of the petitioner.

On July 5, 1990, the petitioner filed a motion for reconsideration/appeal with the DOLE. It was denied on September 17, 1990 by Undersecretary Bienvenido E. Laquesma on the grounds that Sections 3 and 4, Rule 6, Book V of the Implementing Rules of the Labor Code on protests had not been followed; that the records disclose that no protest was made before the election, nor formalized within five (5) days after the election, as provided for by the rules; and the DOLE has not found any legal obstacle to the proclamation of the NFL as the collective bargaining agent of petitioner's workers.

On September 29, 1990, petitioner filed a motion for reconsideration but the same was denied on October 26, 1990 by Undersecretary Laquesma.

Hence, the present recourse.

On January 21, 1991, Zamboanga Rubber Workers Union, a duly organized labor union affiliated with the Philippine Integrated Industries Labor Union, filed a motion for intervention in this Court alleging that it had requested the petitioner in writing to recognize it as the sole and exclusive bargaining agent of its workers. The motion was noted by this Court without action.

The pivotal issue in this case is whether or not the petitioner, Hercules Industries, Inc., as employer, may question the validity of the certification election among its rank-and-file employees. The answer is no.

In a long line of decisions, this Court has undeviatingly ruled that the employer is not a party to a certification election which is the sole or exclusive concern of the workers (*Rizal Workers Union vs. Ferrer-Calleja*, 186 SCRA 431). In the choice of their collective bargaining representative, the employer is definitely an intruder. His participation, to put it mildly, deserves no encouragement (*Consolidated Farms, Inc. vs. Noriel*, 84 SCRA 469; *Filipino Metals Corp. vs. Ople*, 107 SCRA 211).

The only instance when the employer may be involved in that process is when it is obliged to file a petition for certification election on its workers' request to bargain collectively pursuant to Article 258 of the Labor Code. After the order for a certification election issues, the employer's involvement ceases, and it becomes a neutral bystander. (*Rizal Workers' Union vs. Calleja*, *supra*.)

In this case, the Solicitor General correctly observed that while the employees themselves never requested the petitioner to bargain collectively, still, they did not object to the results of the certification election. Hence, petitioner's appeal to the Bureau of Labor Relations from the Med-Arbiter's Order certifying the NFL as the exclusive bargaining agent of its rank and file employees, and its filing of this petition for certiorari with us, must be rejected. The employer's intervention in the certification election of its workers is frowned upon by law.

In any event, petitioner's challenge against the validity of the certification election of May 4, 1990 is devoid of merit. Its allegations that no notice of the certification election had been issued, hence, no copies of said notice were given to it, nor posted in conspicuous places within the company's premises; that the payroll of July 1987

was not used as the basis of the voters' list; and that only fifteen (15) out of the ninety eight (98) voters signed their names showing that they actually voted, were belied by the minutes of the pre-election conference (Annex "A" of Comment of private respondent) which showed that petitioner was duly notified of the conference and attended the same, and that during said conference the Med-Arbiter set the certification election on May 4, 1990.

The minutes of the certification election (Annex "C" of private respondent's Comment) also show that "the list of the names of the voters were (sic) copied from the payroll of 1987 per order of the Director, Bureau of Labor Relations, Manila, x x x" (p. 188, Rollo).

Finally, the same minutes certified that: "The certification election just concluded was conducted in the most just, honest and freely (sic) manner without untoward happening. Further, we certify that the result above is true and correct" (p. 188, Rollo) thereby refuting petitioner's allegation that only fifteen (15) out of ninety eight (98) workers signed the master list to show that they actually voted again.

Besides, neither the records of the case nor the minutes of the certification election show that petitioner protested the conduct of the certification election as provided in Section 3 of Rule VI (ELECTIONS) of Book V of the Omnibus Rules Implementing the Labor Code which states:

"Sec. 3. Representation officer may rule on any on-the-spot questions. - The Representation officer may rule on any on-the-spot question arising from the conduct of the election. The interested party may however, file a protest with the representation officer before the close of the proceedings.

"Protests not so raised are deemed waived. Such protests shall be contained in the minutes of the proceedings."
(Underscoring ours.)

On the basis of the election minutes, which are the only relevant and competent evidence on the conduct of the election, the Med-Arbiter did not err in declaring the NFL as the duly elected exclusive bargaining agent of the petitioner's rank and file workers. That finding should be accorded not only respect but also finality by this Court for it is supported by substantial evidence (Chua vs. NLRC, 182 SCRA 354).

WHEREFORE, finding no grave abuse of discretion in the assailed decision of the NLRC, the petition for certiorari is DISMISSED, with costs against the petitioner.

SO ORDERED.

Medialdea and Bellosillo, JJ., concur.

Cruz, J., (Chairman), on leave.

* Atty. Demosthenes S. Baban for petitioner; and the Solicitor General for the public respondents.

** Issued by Undersecretary of Labor, Bienvenido E. Laquesma.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.