LABOR RELATIONS LAW

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I. COURT OF INDUSTRIAL RELATIONS

A. Basis for Determination of Jurisdiction Over the Subject Matter

In *Progressive Labor Association v. Atlas Consolidated Mining and Development Corporation, et als.*[1] the Supreme Court, in an opinion by Mr. Justice J.B.L. Reyes, reiterated the long standing rule that the jurisdictional competence of the Court of Industrial Relations is determined solely by the allegations of the complaint or petition.

In the foregoing case, the Progressive Labor Association, claiming to be the certified collective bargaining agent of the employees of the respondent company, called a strike (with previous notice) after an impasse had developed in the collective bargaining negotiation between the Union and the Corporation. During the strike, the other defendants, represented to the Company that they are the officers of the Progressive Labor Association and duly authorized to act for and in its behalf. Thereafter, defendant Corporation signed a Return-to-Work Agreement with the other defendants.

Upon learning of this development, the Progressive Labor Association filed a complaint in the Court of First Instance of Rizal for damages and the annulment of the Return-to-Work Agreement. The Corporation and the other defendants moved to dismiss the complaint on the ground that the Court of First Instance of Rizal had no jurisdiction over the case because it involved an unfair labor practice, consisting of the refusal of the Corporation to bargain collectively with the Union. The lower court granted the motion to dismiss the complaint and the Union appealed to the Supreme Court.

After going over the complaint, the Supreme Court found that the plaintiff's cause of action to annul the Return-to-Work Agreement arose out of the alleged unfair labor practice committed by the Corporation and the misrepresentation committed by the other defendants. In view of these findings, the Supreme Court concluded that the subject matter of the case filed by the Union in the Court of First Instance of Rizal involves not only an unfair labor practice but also the rightful bargaining agent of the

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[1] G.R. No. L-27585, May 29, 1970.

employees of the defendant Corporation, matters which are exclusively cognizable by the Court of Industrial Relations.

In its effort to sustain the jurisdiction of the Court of First Instance of Rizal, the Union urged before the Supreme Court that its demand for damages as a result of the unwarranted acts of the Corporation puts the case out of the jurisdiction of the Court of Industrial Relations. Mr. Justice Reyes met this argument with the observation that a mere allegation in the complaint that the plaintiff has suffered damages because of the unwarranted acts attributed to the defendants does not work to divest the Court of Industrial Relations of its jurisdiction over cases involving unfair labor practices and representation of employees. According to Mr. Justice Reyes, the right to damages would still have to depend on the evidence to be presented in the unfair labor practice case, and in order to avoid splitting the case, which is conducive to the maintenance of an orderly administration of justice, the case should be brought before the Court of Industrial Relations.[2]

Comments

Attention is directed to the prior case of *Associated Labor Union v. Borromeo*.[3] There the Supreme Court held that the jurisdiction of the Court of Industrial Relations over the subject matter of a case is determined by the *issues* raised by the parties. This is rather unusual. If this is correct, then the determination of the jurisdiction of the Court of Industrial Relations over the subject matter would necessarily involve a consideration of the allegations of both the complaint and the answer. Although this ruling was made *obiter dictum*, nevertheless, it was quite a significant shift of position by the Court on the test theretofore used in determining the jurisdiction of the Court of Industrial Relations over the subject matter of a case.

The decision in the 1970 *Progressive Labor Association* case shows that the Supreme Court has not accepted the test applied in the 1968 *Associated Labor Union* case. Indeed, this case was not even included in the list of cases cited by the Supreme Court in the 1970 *Progressive Labor Association* case, which reiterated the long standing rule that the jurisdiction of the Court of Industrial Relations over the subject matter is determined solely by he allegations made in the complaint or petition.

It should also be noted that the decision in the 1970 *Progressive Labor Association* case failed to make any reference to the holding of the Supreme Court in the case of *Insular Sugar Refining Corporation, et al. v. Court of Industrial Relations, et al.*[4] Speaking also through Mr. Justice Reyes, the

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[2] Pambujan Sur United Mine Workers v. Samar Mining Co., G.R. No. L-5694, May 12, 1954; 50 O.G. 2449 (June, 1954); 94 Phil. 932 (1954).

[3] G.R. No. L-26461, November 27, 1968.

[4] G.R. No. L-19247, May 31, 1963; 62 O.G. 5580 (August, 1966).

Supreme Court held in this case that the truth of the allegations of the complaint or petition must be theoretically admitted. This omission somehow leaves the test in an ambiguous state.

In the 1963 *Insular Sugar Refining* case, the complainants alleged in their complaint that they were discharged for a strike about which they had no responsibility. In analyzing the significance of the test on this factual allegation, Mr. Justice Reyes stated that the existence of an employer-employee relationship between the parties as well as the illegality of the dismissal of the complainants are to be admitted, albeit theoretically, inasmuch as the employer-employee relationship is not or cannot be terminated by an illegal dismissal. In other words, the facts on which the allegations in the complaint are based must be hypothetically assumed in the application of the test to determine the competence of the Court of Industrial Relations over the subject matter of the case.

This is a good clarification of the application of the test. Thus, in the subsequent case of *Edward J. Nell Corporation v. Cubacub*,[5] the Supreme Court adverted to this procedure and held that the facts contained in the allegations in the complaint are to be theoretically admitted in resolving the issue of jurisdiction of the Court of Industrial Relations. If this is not followed, the outcome would be no different than the result reached in the 1968 *Associated Labor Union* case, where the Supreme Court in taking into account the allegations in the answer grappled with the *issues* instead of the facts alleged in the complaint.

The clearest implication of the clarification of the test made in the 1963 *Insular Sugar Refining Corporation* case and the 1965 *Edward J. Nell Corporation* case is that the Court of Industrial Relations can validly proceed with a case so long as the allegations in the complaint or petition appear to be sufficient, as held in *Jose Serrano v. Luis Serrano*,[6] until such time as the facts gathered in the hearing shows that the case is clearly beyond the jurisdiction of the Court of Industrial Relations, as held in the case of *Manila Electric Company v. Ortañez*.[7]

B. Motions for Reconsideration

1. *Resolutions, Orders or Decisions of Trial Judge*

Section 15 of the Rules of the Court of Industrial Relations requires motions for reconsideration of resolutions, orders or decisions of a trial judge to be under oath and filed within five days from receipt of the notice of such resolutions, orders or decisions.

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[5] G.R. No. L-20842, June 23, 1965.
[6] G.R. No. L-19562, May 23, 1964.
[7] G.R. No. L-19557, March 31, 1964.

In the case of *Continental Manufacturing Employees Association, et als. v. Court of Industrial Relations, et als.*[8] the Supreme Court, through Mr. Justice Enrique M. Fernando, applied the foregoing rule strictly. The Supreme Court held that the filing of a motion for the reconsideration of a decision of a judge of the Court of Industrial Relations is barred if not made within the reglamentary five-day period. Mr. Justice Fernando cited the case of *Elizalde & Co., Inc. v. Court of Industrial Relations,*[9] where the Supreme Court ruled that failure to meet the requirements of Section 15 of the Rules of the Court of Industrial Relations will mean dismissal of the motion for reconsideration.

Comments

The strict application of the procedural requirement of Section 15 of the Rules of the Court of Industrial Relations is of long standing, going back to *Manila Metal Caps, Inc. v. Court of Industrial Relations*[10] and *Bien v. Castillo.*[11] In the latter case, the Supreme Court held that the failure to observe the period for the filing of a motion for reconsideration and the period for the filing of supporting arguments is sufficient ground for the dismissal of either or both, as the case may be.

2. *Resolutions, Orders or Decisions of the Court of Industrial Relations En Banc*

May a resolution of the Court of Industrial Relations *en banc* be the subject matter of a motion for reconsideration?

During the year in review, this question was raised squarely in two cases, namely, *Universal Textile Mills, Inc. v. Court of Industrial Relations and Macario Umali*[12] and *Universal Textile Mills Workers Union v. Court of Industrial Relations, et als.*[13]

In these cases, the Universal Textile Mills, Inc. and the Universal Textile Mills Workers Union were found by the Court of Industrial Relations to have committed an unfair labor practice consisting in the unjustified dismissal of a laborer. After the Company and the Union each filed a *pro forma* motion for reconsideration, within the five-day period prescribed by the Rules of the Court of Industrial Relations, they notified the court of their intention to submit, within the reglementary ten-day period, their respective memoranda of arguments. On the day set for the hearing of the motions for reconsideration, the Court of Industrial Relations sitting *en*

[8] G.R. No. L-26849, September 30, 1970.
[9] G.R. No. L-21942, September 23, 1968.
[10] G.R. No. L-17578, July 31, 1963; 62 O.G. 4936 (July, 1966).
[11] G.R. No. L-7428, May 24, 1955.
[12] G.R. No. L-31287, December 29, 1970.
[13] G.R. No. L-31332, December 29, 1970.

banc barred counsel for the Union from arguing his client's case on the ground that the Union's memorandum of arguments was filed out of time. Counsel for the Union disputed this ruling by exhibiting the registry receipt of the mail cover sent to the Court of Industrial Relations, which shows that the memorandum of arguments was posted within the reglementary period. Due to this development, the presentation of the arguments for the Union and the Company was held in abeyance pending investigation of the mailing date of the Union's memorandum of arguments.

But to the consternation of the petitioners, the Court of Industrial Relations *en banc* dismissed both motions for reconsideration on a different ground, that insufficient number of copies of the respective memoranda of arguments of the parties were filed with the Court of Industrial Relations. The Company and the Union thereupon filed separate motions with the lower court asking the reconsideration of this resolution *en banc*. But these motions for reconsideration were also summarily denied by the Court of Industrial Relations on the ground that resolutions of the Court of Industrial Relations reached *en banc* can no longer be the subject of any motion for reconsideration. The Company and the Union did not agree and brought the matter to the Supreme Court on a petition for certiorari.

In an opinion prepared by Mr. Justice Fred Ruiz Castro, the Supreme Court wisely held that the rule cited by the Court of Industrial Relations to the effect that resolutions reached *en banc* cannot be the subject any more of any motion for reconsideration refers only to resolutions reviewing the orders or decisions of individual judges of the lower court. The Supreme Court felt that this is a reasonable interpretation because the issues would by then have been passed upon twice, first by the trial judge and secondly by the court *en banc*. But the rule in question could not have been intended to apply to resolutions promulgated by the Court of Industrial Relations *en banc* on matters which have not been previously passed upon by the Court of Industrial Relations. In this particular case, the motions for reconsideration, which were dismissed by the disputed resolution *en banc* on the ground that insufficient copies thereof were filed, were not heard previously by the Court of Industrial Relations *en banc*. Therefore, the dismissal of the motions seeking the reconsideration of the resolution of the Court of Industrial Relations reached *en banc* dismissing the motions to reconsider the finding of unfair labor practice was a curtailment of the right of the petitioners to be heard on the matter and a grave abuse of discretion.

C. Supervision and Control Over Proceedings

In *Lakas ng Manggagawang Makabayan v. Court of Industrial Relations, et als.*,[14] the Court of Industrial Relations *en banc* acted *motu propio*

[14] G.R. No. L-32178, December 28,1970.

on the motion for intervention filed by the petitioner labor organization because of the failure of the trial judge to leave any instruction as to the disposition of the case when he went on vacation. The action taken by the Court of Industrial Relations *en banc* denied the motion for intervention on the ground that the case would be unduly delayed if the petitioner were allowed to intervene because it would then have to wait for the return of the trial judge. Disappointed by this action, a petition for certiorari was filed with the Supreme Court contending that the Court of Industrial Relations not only abused its discretion but also denied the Union due process of law by deciding the Union's motion for intervention before it could be resolved by the trial judge, to whom the parent case was assigned.

The Supreme Court, speaking through Mr. Justice Castro, dismissed this contention on the ground that the record of the case shows that the Court of Industrial Relations acted only after the parties had submitted the case to the trial judge for resolution and after the Union had previously completed the presentation of evidence supporting its motion for intervention. Mr. Justice Castro said that although it is a matter of practice and ordinary procedure in the Court of Industrial Relations to assign a case to a trial judge for hearing and decision, still there is nothing in Commonwealth Act No. 103, creating the Court of Industrial Relations, nor in any other statutes of the Philippines to show or even infer that the Court of Industrial Relations is without authority to withdraw a case from a trial judge to whom it was first assigned.

Comments

Care should be taken in the application of this ruling.

It should be noted that it is limited by the material facts involved in the case, namely, 1) that the parties to the case have completed the presentation of their respective evidence and, thereafter, submitted the case for resolution, and 2) that the case required no further action except a decision. Stated differently, the holding in the 1970 *Lakas ng Manggagawang Makabayan* case is not a blanket authority for the Court of Industrial Relations to act *motu propio* in the disposition of a case which was previously assigned to a member of the court. The decision is authority in subsequent cases only if the special circumstances involved in this particular case are present.

II. UNFAIR LABOR PRACTICES

A. SCOPE OF THE TERM "UNFAIR LABOR PRACTICE"

In the case of *Alhambra Industries, Inc. v. Court of Industrial Relations and Alhambra Employees Association,*[15] the Company was found to

[15] G.R. No. L-25984, October 30, 1970.

have denied to some of its drivers and helpers the privileges and benefits of an existing collective bargaining agreement by treating them as independent contractors of its salesmen and promotion agents.

Mr. Justice Claudio Teehankee, who spoke for the Supreme Court, ruled that this practice is not in accordance with the collective bargaining agreement and that the Company's "failure to live up in good faith to the terms of the collective bargaining agreement by denying the privileges and benefits thereof to these drivers and helpers through its device of trying to pass them off as 'employees' of its salesmen and propagandists was a serious violation of petitioner's duty to bargain collectively and constituted unfair labor practice in any language."

Comments

There is no question that the Company violated the collective bargaining agreement when it denied the benefits thereof to some of its drivers and helpers. But I doubt that the Company's "failure to live up in good faith to the terms of the collective bargaining agreement is a violation of the duty to bargain collectively and constituted an unfair labor practice in any language". I'm afraid this ruling is not in consonance with the letter and the spirit of the Industrial Peace Act.

Section 1(a) and Section 3 of the Industrial Peace Act state the policy declaration on unionism, collective bargaining, and union concerted activities for the purpose of collective bargaining and other mutual aid or protection. Implicit in the statement of the rights of employees in Section 3 of the Industrial Peace Act is the privilege to refrain from exercising such rights. The only limitation in the Industrial Peace Act on the right of employees to refrain from exercising the right to join or assist a labor organization is found in the proviso of Section 4(a)(4) of the said Act. This exception refers to the closed-shop arrangement validly agreed upon by a labor union and an employer. When this kind of shop-arrangement is validly entered into, then the employees can be compelled to join the bargaining union. If they don't they are in danger of losing their jobs, except when they belong to a religious sect which prohibits their members from joining or affiliating with any labor organization as a matter of religious belief.

In order to provide continuing protection to the fundamental rights of labor enumerated in Section 3 of the Industrial Peace Act, certain unfair labor practices on the part of management and labor are defined in the Industrial Peace Act. Studies have shown that these statutory unfair labor practices are the primary causes of industrial unrest. In another way of putting it, Section 4(a) and 4(b) of the Industrial Peace Act has characterized certain acts and practices as prejudicial to the fundamental rights

of labor, whether committed by management or labor, and should thus be prevented and remedied affirmatively.

However, Congress has wisely limited the scope of the term "unfair labor practice" in Section 2(i) of the Industrial Peace Act only to those expressly catalogued in Section 4(a) and 4(b), no more than six in the case of employers and no more than four insofar as labor organizations are concerned. The congressional intention for this strict policy is to prevent any undue or non-statutory expansion of the scope of the term "unfair labor practice."

The problem raised by the decision of the Supreme Court in the 1970 *Alhambra Employees Association* case is whether "failure to live up in good faith to the terms and conditions of a collective bargaining agreement . . . was a serious violation of petitioner's duty to bargain collectively and constituted unfair labor practice in any language."

As mentioned above, Section 2(i) of the Industrial Peace Act explicitly defines the term "unfair labor practice" to embrace only those acts expressly listed in Section 4(a) and 4(b) of the Industrial Peace Act. Furthermore, the Act does not allow any implied unfair labor practice. If this were possible, that is to say, if the express catalogue of unfair labor practices could be expanded or if other practices could be inferred from those expressly enumerated, then it would not be difficult to see that the Act itself would have emasculated its own statutory policy and would have opened the gates to interminable differences of interpretations and opinions begetting industrial unrest.

It is noteworthy that the acts classified as unfair labor practices in Section 4(a)(6) and Section 4(b)(3) of the Industrial Peace Act are, respectively, the *refusal of the employer to bargain collectively* with the representatives of his employees, subject to the provisions of Sections 13 and 14, and the *refusal of a labor organization or its agents to bargain collectively* with the employer, provided it is the representative of the employees, again subject to the provisions of Sections 13 and 14 of the Act.

Section 14 refers to the procedure for collective bargaining which the Industrial Peace Act requires to be followed, in the absence of an agreement or other voluntary arrangement providing for a manner of collective bargaining more expeditious than the procedure provided in Section 14. On the other hand, Section 13 of the Industrial Peace Act defines the duty to bargain collectively by separating it into two independent aspects: 1) the performance of the mutual obligation to meet and confer promptly and expeditiously and in good faith for the purpose of negotiating an agreement with respect to wages, hours, and/or other terms and conditions of the employment, and of executing a written contract incorporating such agree-

ment if requested by either party, but such duty does not compel any party to agree to a proposal or to make concession, and 2) the performance of the mutual obligation to meet and confer promptly and expeditiously and in good faith for the purpose of adjusting any grievance or question arising under such agreement, but such duty does not compel any party to agree to a proposal or to make concession.

It is the second aspect of the duty to bargain collectively that is decisive to the problem arising from the Supreme Court ruling in the 1970 *Alhambra Employees Association* case, that the "failure" of the Company "to live up in good faith to the terms of its collective bargaining agreement" is a "serious violation of the petitioner's duty to bargain collectively and constituted unfair labor practice in any language".

Non-compliance with the terms and conditions of a collective bargaining agreement is not a violation of the duty to bargain collectively, whether in the first or second statutory sense. To put it differently, this is not an unfair labor practice in the language of the law and the congressional policy, more specifically, Section 2(i), Section 4(a)(6), Section 4(b)(3), and Section 13 of the Industrial Peace Act. What is proscribed explicitly as an unfair labor practice in Section 4(a)(6) and 4(b)(3) of the Industrial Peace Act is not the "failure to live up in good faith to the terms and conditions of a collective bargaining agreement" but the *refusal* of either the employer or the labor organization to bargain collectively with the other party, which means, under the express language of Section 13, the *non-performance of the obligation to meet and confer promptly and expeditiously and in good faith for either or both of the purposes of collective bargaining.*

In the 1970 *Alhambra Employees Association* case, the Company did not violate either of the two independent statutory aspects of the duty to bargain collectively. It could not have violated the first because there was an existing collective bargaining agreement between the parties. It could not have been the second aspect either because the parties in fact had met several times to thresh out and adjust the grievance or question arising from the Company's denial to some of its drivers and helpers the privileges and benefits contained in the existing collective bargaining agreement by classifying them as "independent employees" of its salesmen and promotion agents. The Supreme Court itself found, as a matter of fact—and this is most crucial—that the Union and the Company had met several times to negotiate this particular grievance or question but "as they could not resolve by conferences this dispute", the Union invoked the final step in the grievance machinery provided in the collective bargaining contract by elevating the question to the Court of Industrial Relations on a complaint for unfair labor practice under Section 4(a)(6) of the Industrial Peace Act.

This is where the Union erred, in the choice of action. And, possibly, this is the point that misled the Supreme Court. At any rate, the action should have been one for the interpretation and enforcement of the collective bargaining contract under Section 13 of the Industrial Peace Act. In that eventuality, the issue would have been whether the 15 drivers and helpers are the employees of the Company (in which case the latter has to comply with the collective bargaining agreement) or whether they are the "independent employees" of its salesmen and promotion agents (in which case the Company would be relieved of its responsibility under the collective bargaining agreement).

Clearly, failure to live up to the terms and conditions of a collective bargaining agreement, or the failure to adjust any grievance or question arising under the collective bargaining agreement is not an unfair labor practice under the explicit language of Section 4(a)(6) and Section 4(b)(3). And the reason for this is simple. Under Section 13 of the Industrial Peace Act, which defines the duty to bargain collectively, it is also expressly provided "that such duty does not compel any party to agree to a proposal or make concession." This means that if there is no agreement between the parties on a difference of interpretation, notwithstanding good faith collective bargaining or negotiation to adjust such a question, then the remedy is either a strike or lockout, or a petition in the Court of Industrial Relations for the interpretation and/or enforcement of the collective bargaining agreement.

Lastly, the Supreme Court in deciding this case relied on the opinion given in *Republic Savings Bank v. Court of Industrial Relations* [16] that "the question is whether the respondent committed the act charged in the complaint. If it did, it is of no consequence either as a matter of procedure or of substantive law, what the act is denominated—whether as a restraint, interference or coercion, as some members of the court believed it to be, or as discriminatory discharge as other members think it is, or as refusal to bargain as some other members view it, or even as a combination of any or all of these."

I think this is an oversimplification. The question in every unfair labor practice case is not whether the act alleged in the complaint has been committed and that if it has it is of no moment what the act is called. I think that the decisive point is whether the act charged in the unfair labor practice complaint is one that properly falls within the definition of the term "unfair labor practice" in Section 2(i), which means that the act complained of is not beyond those expressly listed in Section 4(a) and 4(b) of the Industrial Peace Act. Sad to say, but the oversimplification shows unfamiliarity with the philosophy underlying the concept of unfair

[16] G.R. No. L-20303, October 31, 1967.

labor practices in the Industrial Peace Act. This is all the more significant if it is noted that whereas "interference with" the exercise of the employees of their rights guaranteed in Section 3 is included as an unfair labor practice in Section 4(a)(1) of the Industrial Peace Act, in addition to restraint or coercion of employees in the exercise of such rights, the same practice or act is not included in the catalog of unfair labor practices on the part of a labor organization or its agents under Section 4(b)(1) of the Industrial Peace Act.

The problem of the respective scope of 4(a)(1)-ULP and 4(b)(1)-ULP is involved and different. But this is not the time to take it up. It will have to wait until a case involving this particular problem is decided by the Supreme Court.

B. ON THE PART OF THE EMPLOYER

1. In *Veterans Security Free Workers Union v. Cloribel, et als.*,[17] the petitioner Union, claiming to have organized the majority of the respondent Company's employees, submitted a set of proposals for collective bargaining. The Company reacted by dismissing from employment the officers of the Union and many union members. After complying with the 30-day notice, the Union struck and picketed the Company's premises.

While the Supreme Court decided the case on the issue of jurisdiction of the Court of Industrial Relations over unfair labor practice, the Supreme Court also touched on the question of the nature of the unfair labor practice involved in the case. The Supreme Court expressing itself through Mr. Justice Teehankee, held that the strike arose out of the Company's unfair labor practices consisting of its refusal to bargain collectively and dismissal of the officers and some members of the labor organization because of their union activities.

2. In *San Miguel Corporation v. Cruz, et al.*,[18] it appears that after the settlement of the strike and the return of the striking employees to their respective jobs, a company official summoned the respondent employee and confronted him with a newspaper clipping showing him as one of the strikers. In that confrontation, the company official told the respondent employee that he would be dismissed if he did not desist from his union activities. A few days after the confrontation, the respondent employee was informed of the Company's decision to retire him for physical disability. While the decisions of the court *a quo* and the Supreme Court are both silent as to whether the respondent employee understood the step taken against him by the Company, the employee decided to accept his retirement and asked the Company to pay his retirement benefits in one lump

[17] G.R. No. L-26439, January 30, 1970.
[18] G.R. No. L-27828, February 27, 1970.

sum, which the Company did. Two months thereafter, the employee filed with the Social Security System an application for disability benefits, which was, however, denied. Three years after he was retired, the respondent employee charged the Corporation in the Court of Industrial Relations with an unfair labor practice case consisting of his dismissal from work because of his union activities. After the filing of the complaint and hearing thereon, the Court of Industrial Relations *en banc* held that this indeed was the case and held the employer guilty of unfair labor practice. The Corporation elevated the decision of the Court of Industrial Relations to the Supreme Court for review.

Through Mr. Justice Reyes, the Supreme Court ruled that the employee may no longer contest the regularity and validity of his retirement three years after he had accepted his retirement benefits on the ground of laches.

Comments

The ruling of the Supreme Court would have been all right if the respondent employee had contested the validity of his retirement. But this was not the complaint. Indeed this was only a technical defense of the Corporation to the employee's complaint of unfair labor practice, consisting of his dismissal not really for physical disability but due to his union activities. This was the issue joined in the Court of Industrial Relations. It was the question decided by the court *a quo,* holding that the Corporation was indeed guilty of the unfair labor practice filed against it and ordering the reinstatement of the employee. It should be noted that the Supreme Court itself admitted in its decision that there is ground to declare that the employee's separation from his job was invalid. But the Supreme Court, impressed by the defense of laches and estoppel, elected to decide the case on these technicalities.

Sections 5 and 6 of the Industrial Peace Act require, among other things, that the main issue in unfair labor practice cases be decided. These statutory provisions do not allow any defense other than to controvert the alleged unfair labor practice, that is to say that no unfair labor practice was in fact committed. Section 5(b) of the Industrial Peace Act, in particular, expressly provides that in unfair labor practice cases, the Court of Industrial Relations and its members and hearing examiners are under a duty "to inquire fully into and ascertain the facts in each case" and decide whether there is a statutory violation or not, without regard to technicalities of law or procedure and the rules of evidence prevailing in ordinary courts. In a different way of stating it, the rigid technicalities of law or procedure or evidence are to be shunned because they could prevent the court from getting to the bottom of things, as it were.

The employee's trouble started when the Court of Industrial Relations accepted the gambit offered by the Corporation that the employee was estopped from contesting the unfair labor practice consisting of his illegal dismissal from the time he accepted his retirement gratuities. When the court *a quo* discussed this technical point and decided it against the Corporation, the latter smartly raised it in the Supreme Court as error on the part of the Court of Industrial Relations. Presumably, the respondent employee fell into the same tactical trap and debated this legal technicality with the petitioner before the Supreme Court. The result was a *judicial dictum,* no longer an *obiter dictum.*

The primary question between the parties in this case is not whether the former employee could still question the regularity or validity of his retirement three years after he had accepted his retirement benefits from the respondent Corporation but whether the former employee, under the circumstances of the case, was the victim of an unfair labor practice committed by his former employer and whether the labor court could take the affirmative step of reinstatement with backpay.

The Supreme Court partly answered this problem in the affirmative by stating that there is no prescriptive period for unfair labor practice cases. However, the Court, feeling that the "primary question" involved in this case is whether a former employee could still question the regularity or validity of his retirement three years after accepting his retirement benefits, distinguished prescription of action, as one involving the fact of delay, from laches, as one concerned with the effects of delay, and held that while the former is not applicable to unfair labor practice cases the latter is.

But there are three points that militate against this ruling. First, there is an unavoidable dichotomy drawn by the Court. If laches is only the after-effect of prescription and the latter is not applicable in unfair labor practice cases, then so is the former. Second, laches is not decisive in a situation where there is an express provision of law applicable to the relationship between the litigants.[19] In the instant case, Section 4(a)(1) and 4(a)(4) expressly prohibit discrimination against an employee in regard to hire or tenure of employment on grounds of union membership and union activity. And third, estoppel does not and cannot validate an act which is prohibited by law or is against public policy.[20] In the instant case, the act of the Corporation, consisting of the dismissal of the employee because the latter refused to stop his union activities, even though the dis-

[19] Barrios v. Carlos A. Go Thong & Co., G.R. No. L-17192, March 30, 1963, 62 O.G. 4175 (June, 1966).

[20] Benguet Consolidated Mining Co. v. Pineda, G.R. No. L-7231, March 28, 1956, 52, O.G. 1961 (April, 1956), 98 Phil. 711 (1956), Eugenio v. Perdido, G.R. No. L-7083, May 19, 1955, 97 Phil. 41 (1955).

missal was deodorized by retiring him for physical disability, is prohibited by Section 4(a)(1) of the Industrial Peace Act.

Had this case been decided on the real issue, and not on the legal technicality which the parties discussed before the Supreme Court, the latter, no doubt, would have ruled that the employer had committed the unfair labor practice complained of. In the statement of facts of the case made by the Supreme Court, the respondent employee was intimidated and coerced by a company official in the company office with a direct threat of loss of job if he did not desist from his union activities. This is the simplest example of a 4(a)(1)-unfair labor practice. But the employee did not desist from his union activities, and soon, thereafter, he was told of the company's decision that he would be retired for physical disability. Perhaps he had some physical disability after all. In any case, here he yielded and he was in fact retired.

3. In *LVN Pictures Employees and Workers Association v. LVN Pictures, Inc.*,[21] the respondent was sued for violation of Sections 4(a)(1) and 4(a)(4) of the Industrial Peace Act, consisting of interference with the exercise of the employees of their rights in Section 3 and discriminatory dismissal of employees and workers because of their union membership and activities. In *LVN Pictures Checkers' Union v. LVN Pictures, Inc., Dalisay Pictures, Inc. and the Court of Industrial Relations*,[22] the respondent companies were charged with violation of Sections 4(a)(1), 4(a)(4) and 4(a)(6) in relation to Sections 12 and 13 of the Industrial Peace Act, consisting of discriminatory dismissals of employees and workers and refusal to bargain collectively with the Union.

It appears in these cases that the respondent LVN Pictures, Inc. suffered heavy losses in its movie production business due to causes beyond its control. Notwithstanding its precarious financial position, the respondent LVN Pictures, Inc. continued to operate its movie production industry in the hope that it would be able to overcome its financial difficulty. But in order to avoid immediate closure of its movie production and lay-off of employees and laborers, the respondent LVN Pictures, Inc. proposed to the Union a change in the manner of payment of compensation, from the salary or wages basis to the *"pakyaw"* system per moving picture. This was turned down by the Union. It also refused the request of the respondent LVN Pictures, Inc. for a reconsideration of the Union decision on the *"pakyaw"* system. The respondent LVN Pictures, Inc. tried again and submitted another proposal to the Union for a graduated reduction of the monthly compensation of all employees and laborers, except those receiving

[21] G.R. No. L-23495, September 30, 1970.
[22] G.R. No. L-26432, September 30, 1970.

less than ₱175.00 a month and those on daily wage basis, whether union members or not. This was also denied by the Union.

After the expiration of the collective bargaining contract between the petitioner LVN Pictures Employees and Workers Association and the respondent LVN Pictures, Inc., the former asked for the negotiation of a new collective bargaining contract. Along about this time, the petitioner LVN Pictures Checkers' Union was organized and also asked the respondent companies to negotiate a collective bargaining agreement. But the respondent companies informed both Unions that they would have to hold in abeyance their reply to the proposed collective bargaining negotiations in view of the stockholders meeting which was soon to meet for the purpose of deciding whether or not to continue with their movie production business in view of their mounting annual losses. After the stockholders' meeting, the Unions were informed of the decision of the Companies to close their movie production business on the ground of mounting annual losses which were aggravated by the refusal of the LVN Pictures Employees and Workers Association to favorably consider either of the two proposals of the respondent LVN Pictures, Inc. to prevent the closure of its movie production. As a consequence of this decision, the respondent Companies dismissed all their employees and laborers except a skeleton force to take care of the equipment and properties of the respondent Companies.

The Court of Industrial Relations decided in favor of the respondent Companies. Failing to get the Court of Industrial Relations to reconsider its decision, the petitioners appealed to the Supreme Court arguing that the respondent Companies were guilty of unfair labor practice.

Mr. Justice Castro, who prepared the decision of the Supreme Court, held that the respondent Companies acted in good faith in trying all possible arrangements with their employees and laborers; that the closure of their movie production business was an unavoidable step to stave off total bankruptcy; and that, under these circumstances, the dismissal of their employees and laborers is not an unfair labor practice under Sections 4(a)(1) and 4 (a)(4).

Concerning the decision of the respondent Companies to defer action on the proposed negotiations for new collective bargaining contracts pending the result of the meeting of the stockholders of the respondent Companies, the Supreme Court held that this is not an unfair labor practice under Section 4(a)(6) of the Industrial Peace Act in relation to Section 13 thereof. According to Mr. Justice Castro, the move on the part of the respondent Companies to hold in abeyance their reply to the collective bargaining proposals was a reasonable remedial step because whether or not they would still enter into a collective bargaining agreement with the labor unions depends entirely on the result of the meeting of the stockholders on the question of

whether to continue in business or not. Mr. Justice Castro felt that under the circumstances, the stockholders' meeting was not scheduled merely to avoid the legal duty of the respondent Companies to meet and confer promptly and expeditiously and in good faith with the labor unions for the purpose of negotiating a collective bargaining agreement as required in Section 13 of the Industrial Peace Act.

Comments

Section 14(a) of the Industrial Peace Act provides that whenever a party desires to negotiate a collective bargaining agreement, it shall so inform the other party in writing with a statement of its proposals and the other party shall submit its reply thereto not later than ten days from receipt of such proposals.

There are only two instances where the time limit required in Section 14(a) may be disregarded.

The first is when there is a voluntary arrangement agreed upon by the parties providing for a collective bargaining procedure that is *more* expeditious than that provided in Section 14 of the Industrial Peace Act. Stated differently, the 10-day period provided in Section 14(a) may further be shortened in a private collective bargaining procedure. But there is a decision of the Supreme Court in the case of *National Union of Restaurant Workers v. Court of Industrial Relations, et al.*[23] that the 10-day period within which to submit a reply to a proposal to negotiate a collective bargaining agreement is "merely procedural and as such its noncompliance cannot be deemed to be an act of unfair labor practice." This pronouncement fails to take into account the purpose and intention of the law-making body in fixing the 10-day period for the filing of the reply to the proposal contained in a request for collective bargaining. This problem did not surface during the year in review. But I have analyzed this decision though in a previous survey.[24]

The second exception to the 10-day period for the filing of the reply to the proposals contained in a request for collective bargaining is an extension of the period granted by the Court of Industrial Relations on the ground of unusual circumstances. A good example of this is the number and complexity of the proposals. When the economic demands are varied and involved, the 10-day period is obviously insufficient for a thorough and meaningful study of the proposals and the submission of a reply thereto.

This is exactly the situation involved in the 1970 *LVN Pictures, Inc.* case. However, no petition for extension of the period to submit the reply was

[23] G.R. No. L-20044, April 30, 1964.
[24] 40 PHIL. L. J. 39-41 (1965).

filed in the Court of Industrial Relations. This factual gap in the ruling of the Supreme Court in the 1970 *LVN Pictures Workers Association* case should not be taken as a go signal for an employer or labor union, in a similar situation, to ignore the Court of Industrial Relations. I don't think this is what the Supreme Court wants.

III. UNFAIR LABOR PRACTICE CASES

A. Hearing Before the Court of Industrial Relations

In the case of *Kapisanan ng mga Manggagawa sa Alak v. Hamilton Distillery Company*,[25] the Supreme Court, in an opinion prepared by Mr. Justice Antonio P. Barredo, held that the rule on "newly discovered evidence" applied in proceedings before the regular courts is not binding upon the Court of Industrial Relations by virtue of Section 20 of Commonwealth Act No. 103, which expressly removes the labor court from the rigid technicalities of evidence applied in ordinary courts.

Comments

The correct statutory reference is Section 5(b) of the Industrial Peace Act, since the case involves an employer unfair labor practice proscribed in Section 4(a) thereof.

The holding of the Supreme Court that the newly-discovered-evidence rule is not binding on the Court of Industrial Relations is not unusual. Section 5(b) of the Industrial Peace Act requires the Court of Industrial Relations and its members and hearing examiners to use every and all reasonable means to ascertain the facts in each and every unfair labor practice case. To give reality to this national policy, Section 5(b) further requires the Court of Industrial Relations to discharge its fact-finding responsibility with dispatch and objectivity, without regard to the technicalities of law or procedure and the technicalities of the rules of evidence prevailing in the regular courts, and that in rendering its decision, the Court of Industrial Relations shall not be bound solely by the evidence presented during the hearing but may avail itself of all means such as, but not limited to, ocular inspections and assistance of well-informed persons. Under this distinctive characteristic of the proceedings in the prevention of unfair labor practices, the Court of Industrial Relations can rely on background evidence, is not bound by the hearsay rule, and may even request the opinion of labor relations law experts. It is not even restricted to the specific relief asked by the parties.[26]

But what is the effect of Section 5(b) of the Industrial Peace Act on procedural due process? Attention is called to an earlier case, *Kapisanan*

[25] G.R. No. L-23714, June 30, 1970.
[26] *Ibid.*

ng mga Manggagawa sa Manila Railroad Company v. Manila Railroad Company,[27] where the Supreme Court discussed this problem. According to Mr. Justice Querube C. Makalintal, who spoke for the Supreme Court, the fact that the Court of Industrial Relations is not bound by the technicalities of law or procedure and the rules of evidence prevailing in regular courts does not mean that the Court of Industrial Relations can also disregard the requirements of due process, such, for example, as the right of a party to be heard. This right is not only constitutionally protected, said Mr. Justice Makalintal, it is also quite necessary in determining the veracity of the testimonies of the parties by the use of cross-examination. Otherwise self-serving evidence could easily find its way into the record of a case. In a word, due process of law is not a legal technicality.

B. AMICABLE SETTLEMENT

There is an interesting aspect involved in the 1970 *Hamilton Distillery Company* case that needs some analysis. And this concerns the amicable settlement of the unfair labor practice involved in this case.

It appears that in a previous case, *Kapisanan ng Manggagawa sa Alak v. Hamilton Distillery Co.*,[28] the parent case of the 1970 *Hamilton Distillery Company* case, the dispositive part of the decision ordered the company to cease and desist from the unfair labor practice complained of and to pay the discriminated employees backwages from the date of dismissal to the date of actual reinstatement. But while the proceeding for the execution of the judgment in the unfair labor practice case was being undertaken, the case was ordered terminated after the Union and the Company had entered into a Compromise Agreement which called for the dismissal of the case, including all claims for backpay which the Court of Industrial Relations had ordered as a remedial measure. The Compromise Agreement was based on the amicable settlement of the unfair labor practice case and the loss of interest of both parties in prosecuting their respective claims, in view of the offer and acceptance of the amount of ₱20,000 as liquidated backpay (out of the total sum of ₱320,789.50 as per Examiner's Report, which was the result of a prior order of the Court of Industrial Relations, and out of the sum of ₱127,647.50 as per Employer's Counter-Offer contained in his Manifestation). Surprisingly, the Court of Industrial Relations entertained the compromise agreement of the unfair labor practice case, issued an order approving the Amicable Settlement on the ground that it is a complete compromise of the respective claims of the parties and that there is nothing about it that is contrary to law, morals, or public policy, and declaring the unfair labor practice case closed.

[27] G.R. No. L-19791, May 16, 1967, 64 O.G. 8830 (Aug., 1968).
[28] G.R. No. L-18112, October 30, 1962.

While it may be conceded that there is nothing immoral in either the amicable settlement of the unfair labor practice case or the compromise agreement on the remedial step of backpay for the reinstated employees, still they are definitely contrary to law and public policy.

Section 5(a) of the Industrial Peace Act provides that the Court of Industrial Relations shall have exclusive jurisdiction over unfair labor practice cases and is empowered to prevent any person from engaging in any unfair labor practice and that this power shall not be affected by any other means of adjustment or prevention that has been or may be established by an agreement, code, law or otherwise.

Note that the exclusive jurisdiction of the Court of Industrial Relations to prevent unfair labor practices "shall not be affected by any other means of adjustment or prevention that *has been* or *may be* established by an agreement, code, law or otherwise." [29] This is the law and the public policy underlying the unfair labor practice procedure in the Industrial Peace Act. It means that the only method recognized by law for the adjustment or prevention of unfair labor practices is that provided in Section 5(b) and (c) of the Industrial Peace Act. It does not matter how the other means of prevention or adjustment of an unfair labor practice may have been established—whether by agreement, code, law or otherwise. Thus, for example, the Court of Industrial Relations can assert its jurisdiction over an unfair labor practice case despite a concurrent arbitration proceeding under the Arbitration Law [30] because it is expressly ruled out by the Industrial Peace Act. And the law and public policy do not care either that the means of prevention or adjustment of an unfair labor practice, other than the one provided in the Industrial Peace Act, *has been* or *may be* established by agreement, code, law or otherwise. [31]

The purpose and the genius of the Industrial Peace Act is the provision for a thorough ventilation of any unfair labor practice in order that proper remedial measures can be applied. And the reason for this special procedure is that unfair labor practice cases involve much more than private conflict of interests. Thus, the Industrial Peace Act recognizes only two instances when an unfair labor practice case may be dismissed, namely, when as a result of an investigation no person named in the complaint has engaged in or is engaging in any such unfair labor practice,[32] and when the complaining party himself withdraws the complaint [33] at any time prior to the decision of the case. When neither is present, the Court of Industrial Re-

[29] Emphasis supplied.
[30] Rep. Act No. 876 (1953).
[31] For some more discussion on the unique features in the procedure for the disposal of unfair labor practice cases, see 44 PHIL. L.J. 8-11 (1969).
[32] Sec. 5(c), Industrial Peace Act.
[33] *Ibid.*

lations must issue a general cease and desist order and take such remedial steps as will effectuate the policies of the Industrial Peace Act. This 2-fold action is necessary to make the employee "whole" and to have the case serve as example to others to prevent the commission of similar or other unfair labor practices for the sake of a sound stable industrial peace.

It should be noted that the award of backpay taken by the Court of Industrial Relations in the 1970 *Hamilton Distillery Company* case was a remedial step for the adjustment of the unfair labor practice involved therein. As such, it can no longer be compromised or waived, pursuant to the policy and intendment of the law.[33a]

Thus, the amicable settlement between the parties in this case is not one of the means recognized by the Industrial Peace Act in the prevention of unfair labor practices. As a matter of law, it is explicitly and expressly ruled out by Section 5(a) of the Industrial Peace Act.

C. LIMITATION ON THE POWER OF THE COURT TO TAKE REMEDIAL MEASURES

In the case of *Philippine Long Distance Telephone Company v. Free Telephone Workers Union and the Court of Industrial Relations*,[34] the Union questioned the validity of the dismissal of Rosario Badillo. Notwithstanding her repeated violations of company rules and regulations, the Court of Industrial Relations ordered her reinstatement without backpay on the ground that "it will lessen the tension in the labor dispute in question." The employer appealed the decision on the ground that the employee's dismissal was for a just cause.

Speaking through Mr. Justice Castro, the Supreme Court affirmed the judgment but correctly disregarded the basis for the remedial step taken by the lower court. Instead, the Supreme Court substituted therefor its own justification: for the reinstatement of the dismissed employee, on the ground that she was already punished for every violation of the rules of the Company; for the non-payment of backwages, because of her repeated violations of company rules and regulations.

Comments

The ruling of the Supreme Court should not be misunderstood as a misreading of Section 5(c) of the Industrial Peace Act. This provision refers to unfair labor practice cases and requires that the affirmative step taken by the Court of Industrial Relations must be one that will effectuate the policies of the Industrial Peace Act. This is the only basis allowed by the Industrial Peace Act for affirmative steps taken by the Court of Industrial Relations in unfair labor practice cases.

[33a] See Dimayuga v. Court of Industrial Relations, G.R. No. L-10213, May 27, 1957.

[34] G.R. No. L-23290, August 31, 1970.

The order of the Court of Industrial Relations, that the reinstatement of the dismissed employee without backpay "will lessen the tension in the labor dispute in question", happens to be based on this test. But the 1970 *Free Telephone Workers Union* case is not an unfair labor practice case. If it were, then the Supreme Court would have erred in substituting its own basis for the remedial order taken by the Court of Industrial Relations because Section 5(c) of the Industrial Peace Act explicitly requires that the affirmative steps to be taken in the prevention of unfair labor practices must be one that will effectuate the policies of the Industrial Peace Act.

D. REINSTATEMENT OF EMPLOYEES

1. *As an Affirmative Remedy*

In the case of *Northwest Airlines Employees Association and Louise Mateu v. Northwest Airlines, Inc. and Court of Industrial Relations,* [35] the Court of Industrial Relations, through Judge Jose S. Bautista, found the respondent Company guilty of unfair labor practice and ordered the reinstatement of petitioner Mateu to her former job of flight stewardess with the corresponding salary of ₱445.07 a month plus backwages. The petitioner employee questioned the validity of the affirmative step taken by the Court of Industrial Relations on the ground that she was already receiving ₱570.00 a month as a passenger sales agent when the respondent airline company was ordered to reinstate her.

The Supreme Court was not impressed. In an opinion prepared by Mr. Justice Makalintal, the Supreme Court held that since petitioner Mateu was employed by the airline company as a passenger sales agent on a temporary basis, she is entitled only to reinstatement to her position before her illegal dismissal at the old salary rate, notwithstanding the fact that she was receiving a higher rate in her temporary employment when she was ordered reinstated, pursuant to Article 3, Paragraphs 5 and 7, of the collective bargaining contract.

Comments

As a remedy to effectuate the policies of the Industrial Peace Act, the Supreme Court has previously ruled, in a prior case, [36] that reinstatement means the restoration to a position from which one has been removed or separated. In different words, an employee can be reinstated to his former position if still open, or to a similar one, or to a substantially equivalent position, but not to a lesser position. [37]

[35] G.R. No. L-24592, May 29, 1970.

[36] San Miguel Brewery, Inc. v. Santos, G.R. No. L-12682, August 31, 1961.

[37] Philippine-American Drug Company v. Court of Industrial Relations, G.R. No. L-15162, April 18, 1962.

2. *Earnings from Other Employment*

In the same case of *Northwest Airlines Employees Association and Louise Mateu v. Northwest Airlines, Inc. and Court of Industrial Relations,* [38] petitioner Mateu was employed as a flight stewardess receiving a monthly salary of ₱445.07 until her unlawful dismissal for union activities. However, during the pendency of the unfair labor practice case, petitioner Mateu was reemployed by the respondent airline company on a temporary basis as a passenger sales agent at a monthly salary of ₱570.00. The Court of Industrial Relations in reinstating petitioner Mateu to her former position of flight stewardess with backpay for the period of her illegal dismissal at the rate of ₱445.07 a month, ordered the deduction therefrom all that she received in excess of that rate during the time she was employed by the same company as passenger sales agent at the rate of ₱570.00 a month.

The issue raised is the validity of such deduction. In supporting the Court of Industrial Relations, the respondent Company contended that pursuant to the long standing rule on the computation of backpay, whatever the dismissed employee actually earned during the period of dismissal should be deducted, on the principle that no one should enrich himself at the expense of another.

The Supreme Court, through Mr. Justice Makalintal, ruled that the foregoing principle has no application where the employee's earnings during the backpay period was for services rendered in another capacity to the same employer. She did not enrich herself at the expense of the Company because she worked for her salary. On the contrary, explained Mr. Justice Makalintal, it is the Company that would be unduly enriched if, after having received the benefit of such services rendered by the employee, the Company should be allowed to pay less for the work the employee had actually rendered as a passenger sales agent.

Comments

Under Section 5(c) of the Industrial Peace Act, the Court of Industrial Relations is required, upon a finding of unfair labor practice, to issue a cease and desist order and require the guilty party to abide by the affirmative steps taken by the Court of Industrial Relations to effectuate the policies of the Industrial Peace Act including, but not limited to, reinstatement of employees with or without backpay and including seniority and other rights of the employees prior to dismissal.

Pursuant to this provision, the Court of Industrial Relations may order the reimbursement of earnings lost by reason of the wrongful discharge deducting therefrom the net earnings from other employment during the period

[38] G.R. No. L-24592, May 29, 1970.

of their illegal dismissal and such sums which they may have failed to earn because of failure to mitigate their pecuniary loss [39] or to accept available suitable employment [40] during the period of illegal dismissal.

What is the effect of the 1970 *Northwest Airlines Employees Association* decision on the long standing rule on computation of backpay award mentioned above?

If, as held in this case, the earnings of an employee during the period of illegal dismissal in excess of the old rate for services rendered for the same employer in a different position are not deductible, does it make any difference if the excess earnings during the said period are for services rendered in a different position for a different employer? Suppose, for example, petitioner Mateu worked for a different airline company as a passenger sales agent during the period of dismissal, does it mean that she has enriched herself in this instance and not when she rendered the same service for the same period to the same employer?

What makes this case interesting is the fact that the dismissed employee, in mitigating her pecuniary loss due to her wrongful dismissal, found not just available suitable employment but desirable new employment with the same employer. And the employer was not unaware of her prior dismissal as a flight stewardess. In fact, the Company reemployed her after she was dismissed because of her union activities. In her new employment as a passenger sales agent she received more than her salary as a flight stewardess. It is not difficult, therefore, to appreciate the concern of the Supreme Court that the difference between the employee's salary as a passenger sales agent and her salary as a flight stewardess should not be deducted from the backpay award. After all she worked for it.

Very well, but the question still remains: has the long standing rule on computation of backpay award been reversed by the 1970 *Northwest Airlines Employees Association* decision?

The concept of reinstatement with backwages is a remedial measure to render employees illegally dismissed "whole" and not more than "whole" because it is not a scheme for awarding compensatory damages, [41] nor is it penal in nature, [42] nor is it a means for the adjudication of a tort. [43] If the 1970 *Northwest Airlines Employees Association* decision is put in juxtaposition with this concept, then obviously the decision in this case has confused the rule. But then this case involves an unusual situation, one where

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[39] PASCUAL, LABOR AND TENANCY LAW 331 (3rd Ed., 1966).

[40] *Ibid,* at 333.

[41] United Construction Workers v. Laburnum Construction Corporation, 347 U.S. 656, 98 L. Ed. 1025, 75 S. Ct. 833 (1954).

[42] International Union v. Russell, 356 U.S. 634, 2 L. Ed. 2d 1030, 78 S. Ct. 932 (1958).

[43] *Ibid.*

an illegally dismissed employee found desirable new employment with the same employer. The Supreme Court gave "several reason that militate against the application of the [long standing rule on the computation of backwages] in the case now before us." Perhaps the reason that is decisive on this point, which the Supreme Court overlooked, is the presumption that the respondent employer yielded or waived in favor of petitioner Mateu whatever earnings in excess of her old rate was coming to her when she was reemployed by the former to a higher position. And this just seems to be the point where the contrasting decisions of the Supreme Court on this question can be reconciled. In other words, the Supreme Court will not apply the rule that backpay award means earnings lost by reason of wrongful discharge minus net earnings from other employment during the said period and such sums which the employee may have failed to earn because of failure to mitigate his pecuniary loss or to accept available suitable employment in cases involving unusual circumstances, *e.g.*, where the earnings of the discriminatorily dismissed employee during the backpay period in excess of the old rate are for services in a higher position rendered for the same employer.

E. CONCLUSIVENESS OF FINDINGS OF FACT

Three cases involving the application of the substantial-evidence-on-the-record rule in determining the conclusiveness of the findings of fact of the Court of Industrial Relations reached the Supreme Court during the year in review. In *Free Telephone Workers Union v. Philippine Long Distance Telephone Company,*[44] *LVN Pictures Checkers' Union v. LVN Pictures, Inc., Dalisay Pictures, Inc. and Court of Industrial Relations,*[45] and *Lakas ng Manggagawang Makabayan v. Court of Industrial Relations and Federacion Obrera de la Industria Tabaquera y Otros Trabajadores de Filipinas,*[46] the Supreme Court made it clear that it will no longer disregard other evidence in the record of the case which detracts from the evidence upon which the findings of fact of the Court of Industrial Relations are based in determining its conclusiveness. In these cases, the Supreme Court reiterated the two aspects of the substantial-evidence rule, namely, the quantitative and the qualitative, both of which it will apply, laying greater emphasis however on the quality of the facts.

Comments

The decisions of the Supreme Court on this question in 1969 and 1970 show that it is now firmly committed to its responsibility for the credibility, reasonableness and sufficiency of the findings of fact of the Court of Industrial Relations.[47] These decisions agree that even though the findings of

[44] G.R. No. L-24593, July 31, 1970.
[45] G.R. Nos. L-23495 and L-26442, September 30, 1970.
[46] G.R. No. L-32178, December 28, 1970.
[47] See 45 PHIL. L.J. 1-5 (1970).

fact of the Court of Industrial Relations have some basis in the record of the case, such findings may nevertheless be disregarded by the Supreme Court in the face of other reliable evidence which are also in the record of the case.

But prior to 1969, the Supreme Court encountered some difficulty in the application of the substantial-evidence-on-the-record rule on appeals involving unfair labor practice cases.

In 1954, the Supreme Court stoutly held, in the case of *Dee C. Chuan v. Nahag,* [48] that "as long as there is evidence to support the decision of the Court of Industrial Relations, this Court will not interfere, nor modify or reverse it, just because it is not based on preponderant evidence." I, therefore, raised the question as to whether it is enough that the findings of fact of the Court of Industrial Relations are supported by some evidence in the record to be conclusive on the appellate court, regardless of the possibility, not entirely remote, that there may be contrary evidence in the record of the case or that such findings of fact was arbitrarily arrived at.

Since 1954 and up to 1968, the record of the Supreme Court on this problem was not consistent. Some decisions held the view that it is enough that there is some evidence in the record of the case supporting the findings of fact of the Court of Industrial Relations. Other decisions interpreted the substantial-evidence-on-the-record rule provided in Section 6 of the Industrial Peace Act to mean preponderance or weight of evidence.

Mr. Justice Makalintal, who penned the decision in the last case decided by the Supreme Court in 1969 on this question, [49] also held for the Court, in the first case decided in 1970 on this question, [50] that the meaning of the substantial-evidence-on-the-record rule, called for by Section 6 of the Industrial Peace Act, "does not depend only on the *quantum* of the facts presented to support the conclusion of the Court of Industrial Relations but also, and more importantly, on the quality of those facts." Thus substantial evidence, continued Mr. Justice Makalintal, "means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Obviously, Mr. Justice Makalintal feels that evidence is not relevant and adequate if it is not credible, strong and positive. And this is possible only when contrary evidence in the record of the case is also taken into account. It was on this point that Mr. Justice Makalintal criticized the Court of Industrial Relations in the 1969 *Victory Labor Union* case for disregarding the "other evidence" in the record of the case which "were undoubtedly more reliable" than those utilized by the Court of Industrial Relations.

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[48] G.R. No. L-7201, September 22, 1954, 95 Phil. 837 (1954).

[49] Gonzales v. Victory Labor Union, G.R. No. L-23256, October 31, 1969.

[50] Free Telephone Workers Union v. Philippine Long Distance Telephone Company, G.R. No. L-24593, July 31, 1970.

Mr. Justice Castro reiterated this view in the second case decided by the Supreme Court in 1970 involving this issue. Speaking for the Supreme Court in the case of *LVN Pictures Checkers' Union v. LVN Pictures, Inc., Dalisay Pictures, Inc. and Court of Industrial Relations,* [51] Mr. Justice Castro, stated that "the rule is now firmly established that the CIR findings of fact are not to be disturbed on appeal as long as they are supported by such material and relevant evidence as a reasonable mind might accept as adequate to support a conclusion," and cited the opinion of Mr. Justice Makalintal in the 1969 *Victory Labor Union* case.

While the 1969 and 1970 decisions of the Supreme Court on this question seem satisfactory enough, I have always maintained, since I first raised this issue provoked by the 1954 *Nahag* case, that the substantial-evidence rule required by Section 6 of the Industrial Peace Act can be realized only by a consideration of the record of the case *as a whole.* But for several years this was not adopted by the Court. Indeed up to 1969, the decisions fitted from one position (that the substantial-evidence-on-the-record test means preponderance or weight of the evidence) to the other (that the test is met as long as there is some basis to support the findings of fact of the Court of Industrial Relations).

Well, at last, in *Lakas ng Manggagawang Makabayan v. Court of Industrial Relations and Federacion Obrera de la Industria Tabaquera y Otros Trabajadores de Filipinas,* [52] the last case decided in 1970 on this issue, the Supreme Court finally ruled that in determining the conclusiveness of the findings of fact of the Court of Industrial Relations the record *as a whole* should be considered. Mr. Justice Castro, who spoke for the Court, held that the findings of fact of the Court of Industrial Relations would not be adequate or substantial "if it were based simply on the portion of the evidence that supports its findings. Justice and equity demand that the record of the case be considered *as a whole.*" [53] However, perhaps it is more accurate to say that it is the statutory and judicial history [54] of the provision that demands this approach and not the natural law postulates of justice and equity. I have always been uneasy with appeals to the supra-positive natural law theory.

IV. VALIDITY OF STRIKE AS A PREJUDICIAL QUESTION TO THE MAIN ISSUE

In *National Power Corporation v. National Power Corporation Employees and Workers Association and Court of Industrial Relations,* [55] and

[51] G.R. Nos. L-23495 and L-26432, September 30, 1970.
[52] G.R. No. L-32178, December 28, 1970.
[53] Emphasis supplied.
[54] See 41 PHIL. L.J. 20-22 (1966); 42 PHIL. L.J. 56-58 (1967); 44 PHIL. L.J. 16-21 (1969); 45 PHIL. L.J. 1-5 (1970).
[55] G.R. No. L-26169, June 30, 1970.

National Power Corporation Employees and Workers Association v. National Power Corporation and Court of Industrial Relations, [56] the Union went on a strike after an impasse in the renegotiation of a demand for a 21 per cent across-the-board salary increases which was submitted before the expiration of the collective bargaining agreement. Immediately the Corporation filed a case in the Court of Industrial Relations disputing the validity of the strike. Despite the pendency of this petition, the respondent Court of Industrial Relations decided the main question of salary increases in favor of the Union.

In the Supreme Court, the petitioner Corporation alleged that the decision of the respondent court on the Union demand for salary increases without first resolving the issue of the validity of the strike is contrary to law and judicial precedent. The Corporation stressed the fact it has questioned the validity of the strike even before formal hearings were conducted by the Court of Industrial Relations on the economic demand of the Union. It also relied on the decision in *Philippine Can Co. v. Court of Industrial Relations,* [57] where the Supreme Court held that the Court of Industrial Relations erred in ordering the strikers back to work before determining the question of the validity of the strike.

Through Mr. Justice Fernando, the Supreme Court agreed with the Corporation that the legality of a strike was squarely raised and that the determination of the validity of the strike was crucial in the proper disposition of the main issue. Although the Supreme Court did not state the reason, it is obvious that there would be no need for the Court of Industrial Relations to consider the economic demands involved in the main issue should the strike turn out to be illegal because one of the consequences of an illegal strike is the loss of employment status.

In considering the reliance placed by petitioner Corporation on the ruling in the *Philippine Can Company* case, Mr. Justice Fernando called attention to the difference in the material facts in the 1950 *Philippine Can Company* and the 1970 *NPC Workers Association* cases. In the former, the strikers who were ordered back to work by the Court of Industrial Relations were laid off by the Company because it was losing a great deal of money in its business operations and had to save itself from bankruptcy. In the latter case, the Corporation was not in a financial bind at all when the employees called a strike after an impasse in the renegotiation of their economic demand which was submitted during the effectivity of an existing collective bargaining agreement. Under the rules for determining the *ratio decidendi* of a case, the appeal made by the Corporation to the ruling in the *Philippine Can Company* case would not normally prosper. But Mr. Justice Fernando properly ruled that such factual variance does not call for a different result.

[56] G.R. No. L-26178, June 30, 1970.
[57] G.R. No. L-3021, July 13, 1950, 47 O.G. 261 (Dec., 1951), 87 Phil. 9 (1950).

Mr. Justice Fernando was persuaded by the precedent set by the Supreme Court in *Feati University v. Bautista,*[58] *Maritime Company of the Philippines v. Paredes,*[59] and *Philippine Long Distance Telephone Company v. Free Telephone Workers Union.*[60] In these cases, the 1950 *Philippine Can Company* decision was relaxed because the issue of the validity of the strike involved in each of these cases was not a prejudicial question to the resolution of the main matter involved therein. But the same cannot be done in the 1970 *NPC Workers Association* case for the simple reason that the issue of the validity of the strike was crucial to the proper disposition of the main matter, let alone the fact that no adverse effect on the parties would result by first disposing of the question of the validity of the strike.

Comments

If Mr. Justice Fernando's acute analysis of the scope of the decision in the 1950 *Philippine Can Company* case is followed, then the Supreme Court will continue to apply it strictly. Stated differently, the issue of the validity of a strike is not a prejudicial question to the decision of the main matter, except when 1) it is squarely raised, 2) no adverse effect on the parties would result in first disposing it, and 3) it is crucial to the main matter involved in the case. Some examples of the third condition are: a case where the strikers who were ordered back to work were precisely laid off to save the company from bankruptcy.[61] and a case where the strikers were granted an across-the-board wage increase on the basis of a demand made during the effectivity of an existing collective bargaining agreement.[62] But it should be noted that in both examples the labor dispute occurred in an industry indispensable to the national interest and was certified as such by the President to the Court of Industrial Relations.

But the Supreme Court will relax the 1950 *Philippine Can Company* decision, that is to say, there is no need to decide the question of the validity of a strike before deciding the main matter before the court when the validity of the strike is not crucial to the main matter, *e.g.*, where the employer does not claim that the lay off of his employees was imperative in order to avoid impending bankruptcy but instead hired replacements for the striking employees to keep his plant going,[63] or where the striking employees had already returned to work by virtue of an Agreement executed by the parties

[58] G.R. No. L-21278, December 27, 1966.
[59] G.R. No. L-24811, March 8, 1967.
[60] G.R. No. L-25420, March 13, 1968.
[61] Philippine Can Co. v. Court of Industrial Relations, G.R. No. L-3021, July 13, 1950, 47 O.G. 261 (Dec., 1951), 87 Phil. 9 (1950).
[62] Natoinal Power Corporation v. National Power Corporation Employees and Workers Association, G.R. Nos. L-26169 and L-26178, June 30, 1970.
[63] Feati University v. Bautista, G.R. Nos. L-21278, L-21462 and L-21500, December 27, 1966.

and confirmed by the Court of Industrial Relations; [64] or where the strike occurs in an industry indispensable to the national interest and certified as such to the Court of Industrial Relations by the President of the Philippines. [65] But, again, it should be noted that in the two cases identified by superior numbers 63 and 64, respectively, the labor dispute involved in each of them had occurred in industries indispensable to the national interest and were certified as such to the Court of Industrial Relations by the President.

V. CIVIL SERVICE UNIONISM

The case of *Confederation of Unions in Government Corporations and Offices (CUGCO), et al., v. Abelardo Subido, et als.* [66] deals with the validity of Memorandum Circular No. 15, Series of 1964, issued by the Commissioner of Civil Service to the Auditor General, to the Government Corporate Counsel, and to all Chairmen of Boards and General Managers of government-owned or government-controlled corporations.

The Memorandum prohibited all the members of the auditing and legal staffs of all government-owned or government-controlled corporations from joining labor unions imposing the obligation to strike or to join strikes and required them to renounce immediately all benefits they have been receiving or enjoying under the collective bargaining agreements entered into between the government-owned or government-controlled corporations and the local employees' unions. The Memorandum further provided that failure to comply with the order shall be a ground for disciplinary action as conduct prejudicial to the best interest of the service with the penalty of dismissal from work.

The Memorandum met with the strong opposition of the petitioners. To strike it down, an original petition for prohibition was filed by the petitioners alleging that the respondent Commissioner of Civil Service had no jurisdiction or authority to issue the Memorandum Circular and that its provisions violate not only their constitutional right to form associations or societies for purposes not contrary to law but also their statutory right to form, join or assist labor unions of their own choosing for the purpose of collective bargaining and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection. The respondents joined the issue by contending that the Memorandum Circular in question was issued to put into effect not only the Civil Service Law but also Republic Act No. 2266, affecting the auditing personnel in government-owned or government-

[64] Maritime Company of the Philippines v. Paredes, G.R. No. L-24811, March 3, 1967.

[65] Philippine Long Distance Telephone Co. v. Free Telephone Workers Union, G.R. No. L-25420, March 13, 1968.

[66] G.R. No. L-22723, April 30, 1970.

controlled corporations, and Republic Act No. 2337, as amended, concerning the members of the legal staffs of said corporations.

The Supreme Court agreed with the respondents' contention and held that the personnel of the auditing staffs of the different government-owned or government-controlled corporations remain under the authority of the Office of the Auditor General, while the personnel of the legal staffs of the said corporations remain under the authority of the Office of the Government Corporate Counsel, and that all of them are embraced and covered by the Civil Service Law, whether they belong to the classified or unclassified service. Citing the case of *National Marketing Corporation v. Court of Industrial Relations, et. al.,* [67] the Supreme Court, expressing itself through Mr. Justice Arsenio P. Dizon, held that the personnel of the auditing and legal staffs of the General Auditing Office and the Office of the Government Corporate Counsel, respectively, are not employees of the government-owned or government-controlled corporations to which they have been detailed. Besides these positions must be completely independent from interference or inducement on the part of the government-owned or government-controlled corporations as a matter of public policy.

The petitioners, however, contend that the Memorandum Circular is unconstitutional because it violated their right to form associations or societies for purposes not contrary to law. They also contend that it is contrary to Section 3 of the Industrial Peace Act because it curtailed their right to form, join or assist labor organizations of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection.

Mr. Justice Dizon dismissed the attack on the validity of the Memorandum with the observation that "the right to form and join associations and unions is not absolute or unlimited. Thus, if a person accepts employment that falls under the civil service law and his employer performs governmental functions—such as the General Auditing Office and the Government Corporate Counsel's Office—he may not resort to and exercise the right to strike, because that is prohibited by law. Having accepted the employment freely and being chargeable with knowledge of the fact that he has no right to resort to strike to enforce his demands against his employer, his only recourse is either to respect and comply with that condition or resign."

Comments

One thing that is striking in this case is the choice of battleground and weapon by the petitioners, considering that, long before this case, authorities are agreed that there are certain constitutional rights that may be validly

[67] G.R. No. L-17804, January 31, 1963.

qualified by statute and "yet to do so is not to violate the traditions and conscience of the people which are ranked as fundamental." [68] In another way of putting it, there are constitutional rights that are absolute because they are "implicit in the concept of ordered liberty" [69] just as there are constitutional rights that are relative, like the constitutional right to form associations or societies for purposes not contrary to law, because they are not at the very base of a free society. Indeed, the phrase "for purposes not contrary to law" was added to the constitutional provision precisely to do away with any dichotomy or ambiguity it may have with the principle of the police power of the State. To put the same thing in a different way, the right of association is subject to the overriding power of the State for the public welfare.

It is interesting to contemplate what the Supreme Court would have done in fact were the argument advanced for striking down of the questioned Memorandum been on the ground that there is nothing in the Industrial Peace Act prohibiting public employees, like government auditors or government lawyers from joining labor unions and enjoying the benefits of such membership when they actually work in government-owned or government-controlled corporations performing proprietary functions (which is the fact involved in this case), pursuant to Section 11 of Republic Act No. 875 and Section 28(c) of Republic Act No. 2260. It will probably take a long time before another case of this nature reaches the Supreme Court. But the result would not probably be the same notwithstanding Mr. Justice Dizon's ruling that the personnel of the auditing and legal staffs of the General Auditing Office and the Office of the Government Corporate Counsel, respectively, are not employees of the government-owned or government-controlled business corporations to which they have been detailed.

VI. JURISDICTION OF THE COURT OF INDUSTRIAL RELATIONS

No question involving the scope of the jurisdiction of the Court of Industrial Relations reached the Supreme Court during the year in review. As in 1969 no case reached the Supreme Court in 1970 involving the controversial 6-to-4 decision in *Philippine Association of Free Labor Unions v. Tan*,[70] where the majority, through Mr. Justice Felix Bautista Angelo, held that with the enactment of the Industrial Peace Act, the jurisdiction of the Court of Industrial Relations has been "restricted" to only four types of cases, namely: 1) cases involving labor disputes indispensable to the na-

[68] Brown v. Mississippi, 297 U.S. 278-287, 80 L. Ed. 682, 56 S. Ct. 461 (1936); Snyder v. Massachusetts, 291 U.S. 97, 78 L. Ed 674, 54 S. Ct. 330 (1934); Herbert v. Louisiana, 272 U.S. 312, 71 L. Ed. 270, 47 S. Ct. 103 (1926).

[69] Palko v. Connecticut, 302 U.S. 319, 82 L. Ed. 288, 58 S. Ct. 149 (1937).

[70] G.R. No. L-9115, August 31, 1956, 52 O.G. 5836 (Oct., 1956), 99 Phil. 854 (1956).

tional interest and is so certified by the President to the Court of Industrial Relations, under Section 10 of the Industrial Peace Act; 2) cases involving controversies concerning minimum wages, under Republic Act No. 602; 3) cases involving controversies regarding hours of work and cases involving claims for additional compensation for overtime work, under Commonwealth Act No. 444; and 4) cases involving unfair labor practices, under Section 5(a) of the Industrial Peace Act.

The last time this issue was raised in the Supreme Court occurred in 1968 in the case of *Centro Escolar University v. Wandaga*[71] and in the case of *Luzon Stevedoring Company v. Celorio*.[72]

The objections of these decisions are discussed in the survey of the 1968 decisions of the Supreme Court in labor relations law.[73] There is no need of repeating the discussion here. Suffice to say that under existing legislation, the Court of Industrial Relations has the power to hear and decide cases under:

(1) Commonwealth Act No. 103 (Court of Industrial Relations Act).
(2) Commonwealth Act No. 358 (Government Seizure of Public Utilities and Business Act).
(3) Commonwealth Act No. 444 (Eight-Hour Labor Law).
(4) Republic Act No. 602 (Minimum Wage Law).
(5) Republic Act No. 875 (Industrial Peace Act).
(6) Republic Act No. 1052 (Termination of Pay Law).

During the year in review, the types of cases decided by the Supreme Court concerning the jurisdiction of the Court of Industrial Relations involved only Commonwealth Act No. 103, Commonwealth Act No. 444, and Republic Act No. 875.

A. UNDER COMMONWEALTH ACT NO. 103.

Under this legislation, the Court of Industrial Relations has jurisdiction to: (1) modify, set aside or reopen an award, order or decision, (2) terminate the effectiveness of an award, order or decision, (3) interpret or determine the meaning of an award, order or decision, and (4) enforce or implement an award, order or decision.

As in 1969, the only type of cases that was decided by the Supreme Court in 1970 dealing with the jurisdiction of the Court of Industrial Relations under Commonwealth Act No. 103 fell under Item No. 1.

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[71] G.R. No. L-25826, April 3, 1968.
[72] G.R. No. L-22542, July 31, 1968.
[73] See 44 PHIL. L.J 39-42; ASPECT OF PHILIPPINE LABOR RELATIONS LAW, PROCEEDINGS OF 1969, 22 *et seq.* (U.P. Law Center, 1970).

The Supreme Court has construed this particular jurisdiction of the Court of Industrial Relations liberally in order to give full effect to its purpose and policy. Thus, in the case of *Philippine Association of Free Labor Unions v. Salvador*[74] and *Sanchez v. Court of Industrial Relations*,[75] Mr. Justice Fernando, who rendered the opinions of the Supreme Court in both cases, stated that "the power of the Court of Industrial Relations, which, as thus phrased, is comprehensive in character, has been given an interpretation by us consistent with the well-nigh sweeping reach of its language. It has never been construed in a niggardly sense; the recognition of such authority has been full and sympathetic, never grudging."

The pertinent provision of law concerning the jurisdiction of the Court of Industrial Relations to modify, set aside or reopen its own award, order or decision is found in the proviso of Section 17 of Commonwealth Act No. 103 which states as follows:

> "An award, order or decision of the Court shall be valid and effective during the time therein specified. In the absence of such specification, any party or both parties to a controversies may terminate the effectiveness of an award, order or decision after three years have elapsed from the date of said award, order or decision by giving notice to that effect to the Court: *Provided, however,* That at any time during the effectiveness of an award, order or decision, the Court may, on application of an interested party, and after due hearing, alter, modify in whole or in part, or set aside any such award, order or decision, or reopen any question involved therein."

In the key case of *Kapisanan ng mga Manggagawa sa Alak v. Hamilton Distillery Company*,[76] the Supreme Court decided two important questions regarding this particular jurisdiction of the Court of Industrial Relations. The first deals with its objective or purpose. The second has to do with its scope, that is, the kind of orders, awards or decisions contemplated in the proviso of Section 17 of Commonwealth Act No. 103.

1. *Objective*

Mr. Justice Barredo, who prepared the opinion of the Supreme Court, stated that the objective or purpose of the jurisdiction of the Court of Industrial Relations to alter, modify in whole or in part, or set aside its awards, orders or decisions, or reopen any question involved therein is to provide the parties the means to have such awards, orders or decisions corrected or adjusted to be consonant with relevant circumstances arising after their rendition.

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[74] G.R. Nos. L-29471 & L-29487, September 28, 1968.
[75] G.R. No. L-26932, March 28, 1969.
[76] G.R. No. L-23714, June 30, 1970.

Comments

This idea was expressed earlier by the Supreme Court in the case of *C. E. Church v. La Union Labor Union*,[77] and *Price Stabilizaton Corporation v. Court of Industrial Relations and Prisco Workers' Union*,[78] where the Supreme Court held that "the clear object of these provisions is undoubtedly to give to the Court a continuing control over the case, in the interest of management and labor, as long as it remains under its control and jurisdiction, in order to accord substantial justice to the parties . . . in line with the liberal policy of the law which enjoins that 'the Court shall act according to justice and equity and the substantial merits of the case, without regard to technicality or legal forms and shall not be bound by any technical rules of legal evidence but may inform its mind on such manner as it may deem just and equitable.' "

2. *Scope of Proviso of Section 17 of Commonwealth Act No. 103*

Mr. Justice Barredo's analysis of this problem in the 1970 *Hamilton Distillery Company* case is well taken.

It appears that in a prior unfair labor practice case involving the same parties, the Court of Industrial Relations had ordered the reinstatement of the employees who were discriminatorily dismissed by the employer and the payment of the sum of ₱20,000 as liquidated backpay in accordance with a Compromise Agreement executed by the parties during the pendency of the case and approved by the Court of Industrial Relations. Subsequent thereto a petition to reopen the award of backpay was filed in the court *a quo* pursuant to the proviso of Section 17 of Commonwealth Act No. 103 on the ground that the Compromise Agreement (where the amount of ₱20,000 was agreed upon out of ₱320,789.50, as per Examiner's Report, and a counter-offer of ₱127,647.50, as per Employer's Manifesto) was executed by the union president personally and without the knowledge and consent of the union members. The respondent Court of Industrial Relations denied the motion to reopen the correctness of the backpay awarded to the employees.

In resolving the validity of the action taken by the Court of Industrial Relations on the petition to reopen the issue of the validity and correctness of the backpay award, Mr. Justice Barredo properly distinguished between awards, orders or decisions which have not yet become final from those which are already final and executory.

In the former the Court of Industrial Relations in the exercise of its quasi-judicial powers has the inherent jurisdicton to reopen cases on grounds of fraud, accident, mistake, excusable negligence, or newly discovered evid-

[77] G.R. No. L-4393, April 28, 1952, 91 Phil. 163 (1952).
[78] G.R. No. L-14613, November 30, 1962.

ence. And should the petition be denied, then the step to take is an appeal within the allowable period provided by the Rules of the Court of Industrial Relations.

In case of orders, awards or decisions which have already become final and executory, the Court of Industrial Relations may still order their reopening in order to have them adjusted or corrected in the light of relevant circumstances arising after they had become final, pursuant to Section 17 of Commonwealth Act No. 103. However, Mr. Justice Barredo stressed the condition that the petition filed under Section 17 of Commonwealth Act No. 103 must not be based on grounds related to matters which could have been raised or are necessarily included in those that have been actually raised before the judgment had become final.

In explaining the extent of this particular jurisdiction of the Court of Industrial Relations, Mr. Justice Barredo referred to the power of the said court to fix or set for the parties the terms and conditions of an award, order or decision. But the fairness and adequacy of the terms and conditions of the award, order or decision set or fixed by the Court of Industrial Relations does not depend on constant or inflexible elements but on the ever-changing economic and social factors involved in labor relations cases. This as well as the very nature of the functions of the Court of Industrial Relations make it necessary to leave that court free to adjust or correct awards, orders or decisions whenever subsequent circumstances demand it even though they may have become final. To this end, said Mr. Justice Barredo, Section 17 of Commonwealth Act No. 103 has fixed the period within which an interested party may avail himself of this opportunity.

Thus, the Supreme Court ruled that the awards, orders or decisions contemplated in the proviso of Section 17 of Commonwealth Act No. 103 are those which are to be carried out within an extended period of time or which need time to implement because of the terms and conditions embodied therein. Section 17 of Commonwealth Act No. 103 does not include awards, orders or decisions that are expected to be complied with at one time only, except when such awards, orders or decisions are the product of extrinsic fraud.

In the order issued by the Court of Industrial Relations in the 1970 *Hamilton Distillery Company* case it is noteworthy that no terms and conditions were laid down by the court because the payment of the award was to be carried out at one time only. Since the award of backwages is considered to be the equivalent of services which the dismissed employees have lost by reason of the unfair labor practice of the respondent Company, then all that remains after the decision had become final was to pay the backwages awarded by the Court. In case the employer refuses to pay, then it could be enforced by writ of execution.

On the manner of payment of backwages, the Supreme Court held that "there is no possible adjustment that can be envisaged; so if the purpose of the reopening sought is to change or modify the amount, either because it is inadequate or is incorrectly computed, such reopening was to be denied after the judgment, order or award has already become final. All matters regarding adequacy or correctness of the back-salaries are supposed to be settled before such finality. The exception is when a decision or order is alleged to be the product of extrinsic fraud. In such an eventuality, however, the reopening would depend on the successful showing of such fraud."

Comments

Prior to the decision in the 1970 *Hamilton Distillery Company* case, the Supreme Court, without any dissenting vote, has construed in a number of cases the proviso of Section 17 of Commonweath Act No. 103 as a limitation on the Court of Industrial Relations to alter, modify, set aside or reopen awards, orders or decisions which have become final and executory.

In *Pepsi-Cola Bottling Company v. Philippine Labor Organization*[79] the Supreme Court, in an opinion penned by Mr. Chief Justice Manuel V. Moran, held that the broad authority of the Court of Industrial Relations under Section 17 of Commonwealth Act No. 103 to modify, set aside or reopen an award, order or decision does not include the power to reopen issues already passed upon, or to alter such award, order or decision after the same has become final and executory.

This view was adopted by the Supreme Court in *Benito Nahag v. Roldan, et als.*[80] and in *Kaisahan ng mga Manggagawa sa Kahoy sa Pilipinas v. Dee C. Chuan & Sons, Inc.*[81] In these two cases, the Supreme Court, expressing itself through Mr. Justice Alex Reyes, stated that while Section 17 of Commonwealth Act No. 103 apparently authorizes the modification of an award at any time during its effectiveness, there is nothing in its wording to suggest that such adjustment or correction may be authorized after the award, order or decision has already become final with respect to the period that has already elapsed at the time the order was issued. "To read such authority into the law," continued Mr. Justice Alex Reyes, "would make of litigations between capital and labor an endless affair, with the Court of Industrial Relations acting like a modern Penelope, who puts off her suitors by unraveling every night what she has woven by day. Such a result could not have been contemplated by the Act creating said Court."

This view of the scope of the proviso of Commonwealth Act No. 103 was continued in *Rattan Art, Inc. v. Union*[82] and in *San Pablo Oil Factory,*

[79] G.R. No. L-3506, January 31, 1951, 88 Phil. 147 (1951).
[80] G.R. No. L-5983, November 28, 1953, 94 Phil. 87 (1953).
[81] G.R. No. L-6265, November 28, 1953, 94 Phil. 88 (1953).
[82] G.R. No. L-6466, May 21, 1954.

Inc. v. Court of Industrial Relations and Kapatirang Manggagawa Association.[83] In the *San Pablo Oil Factory* case, the petitioner Company contended that under the provisions of Section 17 of Commonwealth Act No. 103, the Court of Industrial Relations has jurisdiction to alter, modify, set aside or reopen its awards, orders or decisions even when they are final. But Mr. Justice Dizon, who prepared the decision of the Supreme Court, held that "however broad and ample this grant of authority may seem, we do not believe that it gives the Court of Industrial Relations authority to reopen issues already passed upon, and to subsequently alter its decision after the same has become final and executory." This interpretation was applied in four successive cases, namely, *Philippine Land-Air-Sea Labor Union v. Cebu Portland Cement Company,*[84] *Manila Cordage Company v. Fernando Vibar,*[85] *La Campana Food Products, Inc. v. Court of Industrial Relations,*[86] and *Alhambra Industries, Inc. v. Kapisanan ng Manggagawa sa Alhambra.*[87]

The 1970 *Hamilton Distillery Company* decision has overruled all the foregoing cases. But I should like to call your attention to the conditions that must be present before the Court of Industrial Relations can exercise its jurisdiction to reopen, modify, or set aside its final awards, orders or decisions in order to correct or adjust them in accordance with relevant circumstances arising after finality. In the 1970 *Hamilton Distillery Company* case, Mr. Justice Barredo referred only to two conditions namely, the petition must be filed during the effectivity of the award, order or decision,[88] and the grounds availed of must come into existence following the award, order or decision and must not have been directly or indirectly litigated before, or if available to the parties were not used by them. There are two other conditions for the proper exercise of this far-reaching jurisdiction of the Court of Industrial Relations, namely, that the petition must be identical or related to the original or main case,[89] and that the relief sought must not affect the period which has already elapsed at the time the award, order or decision to be altered or modified was issued.[90] Together, all four conditions serve to prevent undermining the very nature of the judicial process as a machinery for the adjudication of controversies and avoid uncertainty and instability in management-labor relations.

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[83] G.R. No. L-18270, November 28, 1962.
[84] G.R. No. L-20987, June 23, 1965.
[85] G.R. No. L-21663, March 31, 1966.
[86] G.R. No. L-27907, May 22, 1969.
[87] G.R. No. L-22219, August 28, 1969.
[88] In this connection, an award, order, or decision is deemed effective for three years from the date of the award, order or decision unless a shorter or longer period is fixed or set by the court. (Section 17, Commonwealth Act No. 103).
[89] Northwest Airlines, Inc. v. Northwest Airlines Philippine Employees Association, G.R. No. L-17378, April 30, 1962.
[90] Nahag v. Roldan, G.R. No. L-5983, November 28, 1953, 94 Phil. 87 (1953).

B. UNDER COMMONWEALTH ACT NO. 444

The public policy regarding the settlement of questions involving hours of work and additional compensation for overtime work is expressed in Section 7 of the Industrial Peace Act. There it is provided that as a matter of free enterprise for management and labor the settlement of these questions is generally left to the parties through the process of collective bargaining. However, the Court of Industrial Relations is empowered by the Industrial Peace Act to compulsory arbitrate these questions when they fall within the pertinent provisions of Commonwealth Act No. 444, otherwise known as the Eight-Hour Labor Law.

There are two types of cases under the Eight-Hour Labor Law within the jurisdictional competence of the Court of Industrial Relations. The first deals with cases involving hours of work under Section 1 of Commonwealth Act No. 444, and the second, with cases involving claims for additional compensation for overtime work under Sections 3 and 4 of the said Act.

1. *The Mindanao Bus Employees Labor Union Decision*

The case of *Emilia de Vera Vda. de Halili v. Court of Industrial Relations and Halili Bus Drivers and Conductors Union*[91] involves both types of cases under the Eight-Hour Labor Law within the jurisdiction of the Court of Industrial Realtions.

In this case, the petitioner disputed the jurisdiction of the Court of Industrial Relations over the claim of the respondent Union for compensation for the time deducted from the working hours of the drivers and conductors spent in taking the buses from the carbarn to the service station and filling them with gas, oil and water, in waiting for passengers or for repair of the motor or other part of the buses in case of breakdown.

Relying on the decision of the Supreme Court in the case of *Mindanao Bus Employees Labor Union v. Mindanao Bus Company and the Court of Industrial Relations,*[92] petitioner took the position that cases involving hours of work and cases involving claims for overtime compensation fall within the jurisdiction of the regular courts to the exclusion of the Court of Industrial Relations.

The Supreme Court dismissed this position as untenable. According to Mr. Justice Barredo, who spoke for the Supreme Court, decisions subsequent to the *Mindanao Bus Employees Labor Union* case have consistently held that it is the Court of Industrial Relations that is empowered by law to take jurisdiction over cases involving hours of work and cases involving claims for overtime compensation. As a result, Mr. Justice Barredo concluded that

[91] G.R. No. L-27773, December 28, 1970.
[92] G.R. No. L-9795, December 28, 1957, 102 Phil. 1179 (1957).

the decision in the 1957 *Mindanao Bus Employees Labor Union* case should be deemed abandoned and that it was no longer the rule when the 1970 *Halili Bus Drivers and Conductors Union* case was filed in court. In passing, the Supreme Court chided petitioner for not being acquainted with this particular development in labor relations law.

Comments

In confirming the demise of the 1957 *Mindanao Bus Employees Labor Union* case, the Supreme Court stated that it was abandoned as early as the *Red V Coconut Products, Ltd. v. Court of Industrial Relations, et al.*[93] Actually it goes farther back to *NASSCO v. Court of Industrial Relations* [94] and to *Price Stabilization Corporation v. Court of Industrial Relations.*[95] Since then, the Supreme Court has consistently ruled that it is the Court of Industrial Relations that has jurisdiction over cases involving hours of work and cases involving claims for additional compensation for overtime work.[96]

2. *Jurisdictional Fact*

In the case of *Manila Hotel Company v. Pines Hotel Employees Association and Court of Industrial Relations,*[97] the Supreme Court, expressing

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[93] G.R. No. L-21348, June 30, 1966.

[94] G.R. No. L-13888, April 29, 1960, 58 O.G. 5875 (Sept. 1962), 107 Phil. 1006 (1960).

[95] G.R. No. L-13806, May 23, 1960.

[96] Pan American World Airways System (Philippines) v. Pan American Employees Association, G. R. No. L-16275, February 23, 1961, 59 O. G. 6046 (Sept. 1963); Fookien Times Company, et al. v. Court of Industrial Relations, et al., G.R. No. L-16025, March 27, 1961, 59 O. G. 1916 (Mar. 1963); Philippine Wood Products, et al. v. Court of Industrial Relations, et als., G.R. No. L-15279, June 30, 1961, 61 O.G. 1345 (Mar., 1965); Miguel de los Santos v. Francisco Quisumbing, G.R. No. L-15376, June 30, 1961; Republic Savings Bank v. Court of Industrial Relations, et. al., G.R. No. L-16637, June 30, 1961, 50 O.G. 7747 (Nov. 1963); Manila Port Service, et al. v. Court of Industrial Relations, et al., G.R. No. L-16994, June 30, 1961, 58 O.G. 7042 (Oct. 1962); Benito Sy Huan v. Jose P. Bautista, et als., G. R. No. L-16115, August 29, 1961, 61 O.G. 2942 (May, 1965); Southwestern Sugar & Company, Inc., et als. v. Court of Industrial Relations, et als. G.R. No. L-17219, August 29, 1961, 59 O.G. 2324 (April, 1963); San Miguel Brewery, Inc., et al. v. Jesus Betia, et al., G.R. No. L-16403, October 30, 1961; Rufino Delantes v. Co Tao & Company, G.R. No. L-15995, October 31, 1961; Concordia Cagalawan v. Customs Canteen, et als., G.R. No. L-16031, October 31, 1961; Manuel Tiberio v. Manila Pilots Association, G.R. No. L-17661, December 28, 1961; National Shipyards and Steel Corporation v. Court of Industrial Relations, et al., G.R. No. L-17068, December 30, 1961; Gracella v. El Colegio de Hospicio de San Jose, G.R. No. L-15152, January 31, 1963, 61 O.G. 6804, (Oct., 1965); American Steamship Agencies, Inc. v. Court of Industrial Relations, G.R. No. L-17878, January 31, 1963; Perez v. Court of Industrial Relations, G.R. No. L-18182, February 27, 1963; Naguiat v. Arcilla, G.R. No. L-16602, February 28, 1963; Bank of America v. Court of Industrial Relations, G.R. No. L-16904, December 26, 1963; Moncada Bijon Factory v. Court of Industrial Relations, G.R. No. L-16038, April 29, 1964; Serrano v. Serrano, G.R. No. L-19562, May 23, 1964; Rheem of the Philippines, Inc. v. Ferrer, et al., G.R. No. L-22979 January 27, 1967; Puyat and Sons, Inc. v. Labayo, G.R. No. L-22215, January, 30, 1968; Centro Escolar University v. Wandaga, G.R. No. L-25826, April 3, 1968.

[97] G.R. No. L-24314 September 28, 1970.

itself through Mr. Justice Castro, reiterated the rule that disputes arising out of or in connection with employment under the Eight-Hour Labor Law fall within the jurisdiction of the Court of Industrial Relations. According to Mr. Justice Castro, "in recognizing the jurisdiction of the Court of Industrial Relations in the case at bar, we are merely reiterating our adherence to the principle (enunciated by this Court in a number of cases involving claims for overtime pay under C.A. 444) that where there is an employer-employee relationship, a claim arising out of or in connection with employment under the Eight-Hour Labor Law is within the jurisdictional competence of the Court of Industrial Relations."

Comments

I am afraid the principle referred to was not accurately stated, unless the Supreme Court means to modify it. I am inclined to the view that the omission was merely due to oversight.

The condition for the exercise of the jurisdiction of the Court of Industrial Relations in this type of cases is not limited only to those where there is an existing employer-employee relationship. The Court of Industrial Relations may also assume jurisdiction over cases falling under the Eight-Hour Labor Law even in the absence of an employer-employee relationship between the parties so long as the claimant seeks his reinstatement. This is the uniform holding of the Supreme Court in a long list of cases prior to the 1970 *Manila Hotel Company* case.[98] In the absence of either of these concurring conditions, a claim for compensation for overtime work becomes a mere claim for the recovery of a sum of money and falls within the jurisdiction of the regular competent court.[99]

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[98] Centro Escolar University v. Wandaga, G.R. No. L-25826, April 3, 1968; Puyat and Sons, Inc. v. Labayo, G.R. No. L-22215, January 30, 1968; Rheem of the Philippines, Inc. v. Ferrer, G.R. No. L-22979, January 27, 1967; Casino Español de Manila v. Court of Industrial Relations, G.R. No. L-18159, December 17, 1966; Justo v. Court of Industrial Relations, G.R. No. L-22173, July 7, 1966; Jose Serrano v. Luis Serrano, G.R. No. L-19562, May 23, 1964; Moncada Bijon Factory v. Court of Industrial Relations, G.R. No. L-16037, April 29, 1964; Bank of America v. Court of Industrial Relations, G.R. No. L-16904, December 26, 1963; Sergio F. Naguiat v. Jacinto Arcilla, G.R. No. L-16602, February 28, 1963; Alfredo B. Perez v. Court of Industrial Relations, G.R. No. L-18182, February 27, 1963; American Steamship Agencies, Inc. v. Court of Industrial Relations, G.R. No. L-17878, January 31, 1963; Edmundo Gracella v. El Colegio de Hospicio de San Jose, G.R. No. L-15152, January 21, 1963; Santos v. Quisumbing, G.R. No. L-15376, June 30, 1961; Price Stabilization Corporation v. Court of Industrial Relations, G.R. No. L-13806, May 23, 1960.

[99] Justo v. Court of Industrial Relations, G.R. No. L-22173, July 7, 1966; Elchico v. Court of Industrial Relations, G.R. No. L-17285, July 31, 1963; Nobel v. Cabije, G.R. No. L-18206, April 23, 1963; Naguiat v. Arcilla, G.R. No. L-16602, February 28, 1963; American Steamship Agencies v. Court of Industrial Relations, G.R. No. L-17878, January 31, 1963; Gracella v. El Colegio de Hospicio de San Jose, G.R. No. L-15152, January 31, 1963; Sy Huan v. Bautista, G.R. No. L-16115, August 29, 1961, 61 O.G. 2942 (May, 1965).

C. UNDER REPUBLIC ACT NO. 875

Under the Industrial Peace Act, the Court of Industrial Relations has authority to hear and decide the following:

(1) Cases involving unfair labor practices under Section 5(a) and (d), and contempt of court in unfair labor practice cases, under Section 5(a).

(2) Cases involving injunctions in unprotected union activities, under Section 9(d)(1), and in labor disputes in industries indispensable to the national interest, under Section 10.

(3) Cases involving working conditions and terms of employment in labor disputes in industries indispensable to the national interest, under Section 10.

(4) Cases involving determination and redetermination of appropriate collective bargaining units, under Section 12(a).

(5) Cases involving representation of employees, under Section 12(b), (c), (d), and (e).

(6) Cases involving appeals from certification election, under Section 12(f).

(7) Cases involving the interpretation and enforcement of collective bargaining contracts for the vindication of the rights of employers and employees, under Sections 13 and 16.

(8) Cases involving violations of internal labor organization procedures, under Section 17.

(9) Cases involving restoration of registrations and permits of labor organizations, under Section 23(d).

(10) Cases pending before the Court of Industrial Relations at the time of the passage of the Industrial Peace Act, under Section 27.

Of the foregoing list, the only cases decided by the Supreme Court in 1970 were those under Items Nos. 1 and 7.

1. *Unfair Labor Practice Cases*

After so many years since the enactment of the Industrial Peace Act in 1963, one would think that the jurisdiction of the Court of Industrial Relations over unfair labor practices is clear to all. The fact is that even now there are still judges of the Courts of First Instance who assume jurisdiction over cases involving unfair labor practices, notwithstanding the fact that the complaints, for all the effort to make them appear as ordinary civil actions, show on their faces that they involve unfair labor practices. Naturally, this situation aggravates the problem of the heavy caseload of the courts.

Section 5(a) of the Industrial Peace Act explicitly provides that it is the Court of Industrial Relations that has exclusive jurisdiction over unfair

labor practice cases. Furthermore, the Supreme Court has reiterated this statutory provision in a long line of cases.

In *Veterans Security Free Workers Union v. Cloribel,* [100] the respondent employer, Jamila and Company, Inc., reacted to the Union's request for collective bargaining by dismissing the union officers and many of its members. On the day following the strike and picket called by the Union, the Company filed a complaint for damages with preliminary injunction in the Court of First Instance of Manila asking the court to declare the union activities illegal and to restrain the Union from picketing. The respondent judge agreed and issued an *ex parte* writ of injunction.

Mr. Justice Teehankee, who penned the decision for the Court in the 1970 *Veterans Security Free Workers Union* case, like Mr. Justice Fernando in the 1968 case of *Federacion Obrera dela Industria Tabacera v. Mojica,* [101] chided the lower court for failing to see that the complaint filed by the respondent company "for all its artful wording, was sufficient on its face to apprise respondent court that the matter presented before it involved an unfair labor practice case falling within the industrial court's exclusive competence and jurisdiction, for respondent, while disclaiming any employer-employee relationship with the union members, denounced them for striking against it, notwithstanding its contingent willingness to bargain, and abandoning their guard assignments, and asked respondent court to declare the strike illegal." What made it worse was the respondent judge's refusal to lift his *ex parte* order, notwithstanding the motion for reconsideration filed by the Union raising the question of jurisdiction and asking him to set aside the said order. Mr. Justice Teenhankee reiterated the provision of Section 5(a) of the Industrial Peace Act which gives the Court of Industrial Relations exclusive jurisdiction over unfair labor practice cases, and cited *Federacion Obrera dela Industria Tabacera v. Mojica,* [102] *Philippine Communications, Electronics and Electricity Workers Federation v. Nolasco,* [103] and *Regal Manufacturing Employees Association v. Reyes.* [104]

The respondent Company also argued that it makes a great deal of difference when the civil case is filed ahead of the unfair labor practice case. In reply, Mr. Justice Teehankee tersely disposed the contention with the observation that "unfair labor practice cases do not present a question of concurrent jurisdiction by the Court of First Instance and the Court of Industrial Relations, but that jurisdiction on such matters is vested exclusively in the Court of Industrial Relations" under Section 5(a) of the Industrial Peace Act. The fact that a civil case was filed in the Court of

[100] G.R. No. L-26439, January 30, 1970.
[101] G.R. No. L-25059, August, 30, 1968.
[102] *Ibid.*
[103] G.R. No. L-24984, July 29, 1968.
[104] G.R. No. L-24388, July 29, 1968.

First Instance before the filing of an unfair labor practice case in the Court of Industrial Relations does not deprive the latter of its jurisdiction.

The respondent Company also distinguished between an unfair labor practice *charge* from an unfair labor practice *complaint*, contending thereby that only the filing of an unfair labor practice complaint could deprive the respondent Court of First Instance of jurisdiction. In disposing off this argument, Mr. Justice Teehankee cited the *Nolasco* case, where the Supreme Court held that the jurisdiction of the Court of Industrial Relations over unfair labor practice cases is not lost, even if no unfair labor practice complaint has yet been filed by the Prosecution Division of the Court of Industrial Relations. In the *Nolasco* case, Mr. Justice Conrado V. Sanchez stated for the Supreme Court that it is enough that an unfair labor practice is involved, rendering irrelevant the distinction suggested by respondent Company between an unfair labor practice *charge* filed by an aggrieved party in the Court of Industrial Relations and an unfair labor practice *complaint* filed by the Prosecution Division of the Court of Industrial Relations after the preliminary investigation of the charge filed earlier by the aggrieved party.

In the 1968 *Federacion Obrera* case, Mr. Justice Fernando, after admonishing judges of Courts of First Instance to be very careful in considering pleadings involving employers and employees, warned that, even if no unfair labor practice complaint has yet been filed in the Court of Industrial Relations, the Courts of First Instance should not exercise jurisdiction over unfair labor practice cases.

Concluding the 1970 *Veterans Security Free Workers Union* decision, Mr. Justice Teehankee did not spare the Court of Industrial Relations either for having suspended the proceeding, upon petition of the employer, over the strong objection of the Union, on the ground that there was a pending question in the Court of First Instance as to whether or not an employer-employee relationship existed between the parties. The Supreme Court held that since jurisdiction over unfair labor practice cases is exclusive with the Court of Industrial Relations, then the alleged absence of employer-employee relationship is only a matter of defense that the respondent Company could have raised in the unfair labor practice case then pending before the Court of Industrial Relations. Although the Court of Industrial Relations did not yield its jurisdiction over the case, the Supreme Court felt that the court *a quo* had erred in suspending the proceeding merely on the ground that it wanted to avoid multiplicity of suits and possible conflict of findings with the Court of First Instance. This, said the Supreme Court, is a shaky premise considering the fact that the Union, in opposing the petition for the suspension of the proceeding, duly informed the Court of Industrial Relations that the Supreme Court had already enjoined the Court of First Instance of Manila from further proceeding with the civil case.

In another case, *Lakas ng Manggagawang Makabayan v. Hon. Carlos Abiera, et als.*,[105] the Court of First Instance of Negros Occidental entertained a petition for mandamus and issued a writ of preliminary injunction in a case clearly involving an unfair labor practice under Section 4(a)(4) of the Industrial Peace Act, as amended by Republic Act No. 3350, notwithstanding the motion to dismiss the petition for mandamus and the opposition to the issuance of the preliminary injunction based on the ground that the court empowered by law to hear and decide unfair labor practice cases is the Court of Industrial Relations. When the decision of the lower court was appealed to the Supreme Court by certiorari and prohibition, Mr. Justice Fernando, who spoke for the Court, held that jurisdiction over unfair labor practice cases, whether on the part of management or labor union, is vested exclusively with the Court of Industrial Relations. As a reminder to the bench and the bar, Mr. Justice Fernando enumerated, in a footnote to his ruling, a long line of cases previously decided by the Supreme Court on this issue.[106]

2. *Cases Involving Interpretation and Enforcement of Collective Bargaining Contracts*

Has the Court of Industrial Relations exclusive jurisdiction over this type of cases?

In the case of *Manila Hotel Company v. Pines Hotel Employees Association and Court of Industrial Relations*,[107] the respondent labor union asked the Court of Industrial Relations to order the petitioner Manila Hotel Company to pay the union members differential pay due them under Republic Act No. 1880, otherwise known as the Forty-Hour Week Law. Opposing the petition, the Company alleged that the union demand had already been settled in an agreement entered into by the parties as a supplement to their collective bargaining contract. After due hearing, the Court of Industrial Relations issued an order granting the petition of the labor union and ordered differential pay for the extra hours of work done beyond the forty-hour week service provided in Republic Act No. 1880. Moving for the reconsideration of the order, the petitioner Manila Hotel Company reiterated its interpretation of the provisions of the supplemental agreement to the collective bargaining contract and raised the issue of lack of jurisdiction of the Court of Industrial Relations on the ground that the case involves the interpretation and enforcement of a supplemental bargaining agreement. This was denied by the Court of Industrial Relations and the petitioner brought the issue to the Supreme Court by means of a petition for review.

[105] G.R. No. L-29474, December 19, 1970.
[106] See list of other cases in 44 PHIL. L.J. 47-48 (1969).
[107] G.R. No. L-24314, September 28, 1970.

Through Mr. Justice Castro, the Supreme Court upheld the jurisdiction of the Court of Industrial Relations over cases involving interpretation and enforcement of collective bargaining agreements. "An issue of this nature," Mr. Justice Castro stated, "is undoubtedly within the competence of the Court of Industrial Relations to take cognizance of, considering the likelihood that its investigation may disclose that the employer was, in effect, committing an unfair labor practice" under Section 4(a)(6) of the Industrial Peace Act. Mr. Justice Castro did not mention it but he was obviously referring to the second aspect of the duty to bargain collectively defined in Section 13 of the Industrial Peace Act as the performance of the mutual obligation to meet and confer promptly and expeditiously and in good faith for the purpose of adjusting any grievance or question arising under a collective bargaining agreement.

Comments

To begin with, Mr. Justice Castro's opinion in this case is a reversal of a contrary view of the same problem he articulated in the 1966 case of *Nasipit Labor Union v. Court of Industrial Relations.* [108]

In deciding the 1970 *Pines Hotel Employees* case, the Supreme Court clearly stated that the issue is whether or not the employer complied with the supplemental agreement to the collective bargaining contract as a result of the conflicting interpretations given to it by the labor union and the employer.

Has the Court of Industrial Relations exclusive jurisdiction over this type of cases?

This is an area where the Supreme Court has not yet firmed up its position. It is not an easy question to answer. Over the last sixteen years, the Supreme Court has alternatively promulgated contrasting decisions on this question. The year in review is not an exception. In the 1970 *Pines Hotel Employees Association* case, [109] the Supreme Court reversed its decision in the immediately preceding case of *Tanglaw ng Paggawa v. Court of Industrial Relations,* [110] where it was held the Court of Industrial Relations lacks jurisdiction to interpret and enforce collective bargaining agreements.

For these reasons, there is need to look back, even if briefly, at the previous decisions of the Supreme Court on this question and, thereafter, to suggest the basis of the jurisdiction of the Court of Industrial Relations over this type of cases.

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[108] G.R. No. L-17838, August 3, 1966.
[109] *Supra,* note 107.
[110] G.R. No. L-24498, September 21, 1968.

(a) Review of Previous Decisions.

In the 1954 case of *Pambujan Sur United Mine Workers v. Samar Mining Co.*,[111] the Supreme Court, in an opinion rendered by Mr. Chief Justice Cesar Bengzon, ruled that the Court of Industrial Relations has exclusive jurisdiction over cases involving interpretation and enforcement of collective bargaining agreements.

In 1957 the Supreme Court overruled the *Pambujan Sur United Mine Workers* decision in the case of *Dee Cho Lumber Workers Union v De Cho Lumber Co.*[112] There it was held that the Court of Industrial Relations has no jurisdiction over cases involving interpretation and enforcement of collective bargaining contracts even though a labor dispute may be involved. The Supreme Court reasoned, in an opinion prepared by Mr. Justice Pastor Endencia, that this type of cases was not among the four classes of cases specified in the case of *Philippine Association of Free Labor Unions v. Tan*[113] to be within the exclusive jurisdictional competence of the Court of Industrial Relations.

Two years later the Supreme Court reversed its decision in the *Dee Cho Lumber Workers Union* case. In *Benguet Consolidated Mining Co. v. Coto Labor Union,*[114] the Court reiterated the *Pambujan Sur United Mine Workers* decision that the Court of Industrial Relations has exclusive jurisdiction over cases involving interpretation and enforcement of collective bargaining agreements. But, in just five months, in the case of *Philippine Sugar Institute v. Court of Industrial Relations,*[115] the Supreme Court again reconsidered its position, overruled the *Benguet Consolidated Mining Company* decision, and held that the Court of Industrial Relations has no jurisdiction to interpret and enforce collective bargaining agreements.

In 1960, the Supreme Court faced the same problem in *Elizalde Paint and Oil Company, Inc. v. Bautista.*[116] Through Mr. Justice Felix Bautista Angelo, who rendered the controversial majority opinion in the case of *Philippine Association of Free Labor Unions v. Tan,*[117] the Court overturned its decision in the *Philippine Sugar Institute* case that the Court of Industrial Relations has no authority to hear and decide cases involving interpretation and enforcement of collective bargaining contracts, and once more ruled that

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[111] G.R. No. L-5694, May 12, 1954, 50 O.G. 2449 (June, 1954), 94 Phil. 932 (1954).

[112] G.R. No. L-10080, April 30, 1957, 55 O.G. 434 (Jan. 1959), 101 Phil. 417 (1957).

[113] G.R. No. L-9115, August 31, 1956, 52 O.G. 5836 (Oct. 1956); 99 Phil. 854 (1956).

[114] G.R. No. L-12394, May 29, 1959, 105 Phil. 915 (1959).

[115] G.R. No. L-13098, October 29, 1959, 57 O.G. 635 (Jan. 1961), 106 Phil. 401 (1959).

[116] G.R. No. L-15904, November 23, 1960, 61 O.G. 137 (Jan. 1965).

[117] G.R. No. L-9115, August 31, 1956, 99 Phil. 854 (1956).

the Court of Industrial Relations is vested with this authority, provided that the question of interpretation and enforcement of collective bargaining agreements involves any of the four types of cases enumerated in the *Philippine Association of Free Labor Unions v. Tan* decision, namely, labor disputes in industries indispensable to the national interest certified as such by the President of the Philippines to the Court of Industrial Relations, claims for minimum wages under Republic Act No. 602, claims involving hours of work and overtime compensation under Commonwealth Act No. 444, and cases involving unfair labor practices.

But something unusual occurred in the solution of this problem in 1964. In the case of *Manila Electric Co. v. Ortañez,* [118] the Supreme Court, in discarding the limitation pressed by Mr. Justice Bautista Angelo in the *Elizalde Paint and Oil Company* case, advanced the view, through Mr. Justice Alejo Labrador, that the Court of Industrial Relations has jurisdiction over cases involving interpretation and enforcement of collective bargaining agreements provided that they have been agreed upon by the parties under the supervision of the Court of Industrial Relations. This is surprising. The Industrial Peace Act shields the entire collective bargaining process from all governmental intervention, except only in the three instances expressly mentioned in Section 7 of the Act. Thus, in the case of *National Mines and Allied Workers Union v. Philippine Iron Mines, Inc.* [119] the Supreme Court, this time speaking through Mr. Justice Roberto Regala, repudiated the condition introduced by Mr. Justice Labrador and reiterated the jurisdiction of the Court of Industrial Relations, provided that the case is among the four types of cases enumerated in the *PAFLU v. Tan* case.

In 1966, in the case of *Nasipit Labor Union v. Court of Industrial Relations,* [120] in a decision penned by Mr. Justice Castro, the Supreme Court overruled itself once more and held that the Court of Industrial Relations has no jurisdiction at all to interpret and enforce collective bargaining agreements on the ground that this particular case does not fall under any of the four types of cases enumerated in the *PAFLU v. Tan* decision.

The Supreme Court maintained this course in 1967. In the case of *National Brewery and Allied Industries Labor Union v. Cloribel,* [121] the Supreme Court held that the Court of Industrial Relations has no jurisdiction over this type of cases, but gave no reason for its holding. In *Seno v. Mendoza,* [122] the Supreme Court ruled that the jurisdiction to enforce the provisions of a collective bargaining contract pertains to the ordinary courts and not to the Court of Industrial Relations on the ground that this case is not

[118] G.R. No. L-19557, March 31, 1964.
[119] G.R. No. L-19372, October 31, 1964.
[120] G.R. No. L-17838, August 3, 1966.
[121] G.R. No. L-25171, August 17, 1967.
[122] G.R. No. L-20565, November 29, 1967.

one of the four types of cases mentioned in the *PAFLU v. Tan* decision, notwithstanding the fact that the *Seno* case involved a labor dispute.

In 1968, the Supreme Court changed position again. Expressing itself through Mr. Justice Fernando in the case of *Security Bank Employees Union v. Security Bank and Trust Company,* [123] the Supreme Court stated that while the issue of whether the Court of Industrial Relations has jurisdiction over the interpretation and enforcement of collective bargaining agreements has been decided previously in some cases in the negative, still those decisions cannot be applied in the circumstances involved in the *Security Bank Employees Union* case. Citing the principle earlier advanced in the case of *Republic Savings Bank v. Court of Industrial Relations* [124] that collective bargaining does not end with the execution of a collective bargaining contract but is a "continuing economic process", Mr. Justice Fernando said that the matter of interpretation and enforcement thereof belongs to the Court of Industrial Relations. This is all the more true, he continued, because no other agency is better prepared by background and experience to take care of the administration of collective bargaining agreements and handle grievances and questions that may arise from the application or interpretation of such agreements. And, referring to the decision in *Allied Free Workers Union v. Apostol,* [125] he stated that for obvious reasons the regular courts are ill-prepared to act in cases involving labor laws and policies.

But, notwithstanding this analysis, in less than five months, the Supreme Court departed from the *Security Bank Employees Union* decision. In the case of *Tanglaw ng Paggawa v. Court of Industrial Relations* [126] the Supreme Court, speaking through Mr. Justice J. B. L. Reyes, held that cases involving interpretation and enforcement of collective bargaining agreements are not within the competence of the Court of Industrial Relations but belong to the regular courts.

The matter remained in this state until 1970. As stated in the beginning of this particular topic, the Supreme Court discarded the decision in the *Tanglaw ng Paggawa* case and held that the Court of Industrial Relations is clothed with jurisdiction to decide cases involving interpretation and enforcement of collective bargaining agreements.

(b) Basis of Jurisdiction of the Court of Industrial Relations

As I have articulated in many previous surveys of the decisions of the Supreme Court on this question, Sections 13 and 16 of the Industrial Peace Act amply provide the basis for the jurisdiction of the Court of Industrial

[123] G.R. No. L-28536, April 30, 1968.
[124] G.R. No. L-20303, September 27, 1967.
[125] G.R. No. L-8876, October 31, 1957, 53 O.G. 981 (Feb. 1958), 102 Phil. 292 (1957).
[126] G.R. No. L-24498, September 21, 1968.

Relations in this type of cases, provided that the action is for the vindication of the rights of the parties contained in the collective bargaining agreements and that the action is filed after the exhaustion of the remedies that may have been established therein. Naturally, the intervention of the Court of Industrial Relations is all the more urgent when there is no machinery for the adjustment of grievances and the settlement of conflicts of interests provided in the collective bargaining contracts. In this connection, the Supreme Court of the United States, in the case of *Smith v. Evening News Association,*[127] aptly stated that the rights and obligations of employers and employees concerning the matters contained in collective bargaining agreements are a "major focus of the grievances and administration of collective bargaining and to a large degree inevitably intertwined with union interest and many times precipitate grave questions concerning the interpretation and enforcement of collective bargaining contracts in which they are based."

Obviously, violations of the terms and conditions of collective bargaining agreements due to differing interpretations by the parties thereto involve administration and handling of grievances. I like to repeat Mr. Justice Castro's apt observation in the case of *Republic Savings Bank v. Court of Industrial Relations,* [128] shared by Mr. Justice Fernando in the *Security Bank Employees Union* case, [129] that collective bargaining does not end with the execution of a collective bargaining agreement but is a continuing economic process. In different words, collective bargaining is not only a procedure for the negotiation of terms of employment and working conditions but also a state of subsisting mutual or reciprocal interests.[130] As Mr. Justice Castro reiterated in the *Manila Hotel Company v. Pines Hotel Employees* case, [131] questions involving interpretation and enforcement of collective bargaining contracts are generally related to refusals of either party to bargain collectively with the other pursuant to Section 4(a)(6) or Section 4(b)(3), as the case may be. And under Section 13 of the Industrial Peace Act, the second aspect of the duty to bargain collectively consists of the mutual obligation to meet and confer promptly and expeditiously and in good faith for the purpose of adjusting any grievances or question arising under such collective bargaining agreement due to differences in interpretation by the parties.

Now under Section 16 of the Industrial Peace Act, the questions that may be adjusted by collective bargaining include issues arising from the application and interpretation of a collective bargaining contract. Even Section 4(a)(6) and Section 4(b)(3) of the Industrial Peace Act are involved when either party fails to adjust, without reason, any grievance or question arising

[127] 371 U.S. 195, 9 L. Ed. 2d 246, 83 S. Ct. 267 (1962).
[128] G.R. No. L-20303, September 27, 1967.
[129] *Supra,* note 123.
[130] PASCUAL, LABOR AND TENANCY RELATION LAW 47 (3rd. Ed. 1966).
[131] G.R. No. 24314, September 28, 1970.

under a collective bargaining agreement because this is plainly refusal to bargain collectively. Should there be an impasse, then the matter goes to the Court of Industrial Relations for decision. Not only is the Court of Industrial Relations better prepared by background and experience to take care of the administration of collective bargaining contracts and handle questions that may arise from their application or interpretation [132] but it is also the agency primarily concerned with the implementation of the policies of eliminating industrial unrest and promoting a sound stable industrial peace through the protection of the means of implementing these policies, namely, unionization and collective bargaining.

VII. RECENT LEGISLATION

During the year in review, Republic Act No. 6129, approved June 19, 1970, amended several sections of Republic Act No. 602, otherwise known as the Minimum Wage Law.

Of special interest in labor relations law is the amendment to Section 16(b) concerning the jurisdiction of the Court of Industrial Relations to compulsorily arbitrate wage cases under the Minimum Wage Law. The jurisdiction of the Court of Industrial Relations over cases concerning claims for minimum wages involved in an actual strike under Section 16(c) has not been affected by the amendatory law. Actions to recover underpayment of wages may be brought in any competent regular court, under Section 16(a). And under Section 16(a) also, actions to restrain violations of the Minimum Wage Law, except those expressly given to other agencies, fall within the jurisdiction of the Court of First Instance.

Prior to its amendments, Section 16(b) provides as follows:

> "In the event that a disputed case before the Court of Industrial Relations involves as the sole issue or as one of the issues a dispute as to minimum wages above the applicable statutory minimum, and the Secretary of Labor has issued no wage order for the industry or locality applicable to the enterprise, the Court of Industrial Relations may hear and decide such wage issue: *Provided, however,* That the Secretary of Labor shall not undertake to fix the minimum wage for an industry or branch thereof which involves only a single enterprise or a single employer."

Under this provision, the jurisdiction of the Court of Industrial Relations covers claims for minimum wages above the applicable statutory minimum without any distinction.

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[132] Republic Savings Bank v. Court of Industrial Relations, G.R. No. L-20303, September 27, 1967, Allied Free Workers Unions v. Apostol, G.R. No. L-8876, October 31, 1957, 54 O.G. 981 (Feb. 1958), 102 Phil. 292 (1957).

As now amended, Section 16(b) reads as follows:

> "The Court of Industrial Relations shall have jurisdiction over claims for payment of minimum wages where there still exist between the parties an employer-employee relationship, or where the claimant seeks reinstatement. In the absence of any of these circumstances, such claim shall come under the jurisdiction of the regular courts.
>
> Any provision of law or rules of court to the contrary notwithstanding, oral evidence shall be admissible to rebutt, impugn, or otherwise, modify the contents of payrolls, vouchers, pay slips, time records, and other documents containing the signature of an employee or laborer in such cases, the payrolls, vouchers, pay slips, time records, and other similar documents being merely *prima facie* evidence of their contents.
>
> The fixing of minimum wages on an industry-wide basis above those fixed by this Act shall be within the jurisdiction of the wage commission, but that in particular firms or enterprises shall be within the jurisdiction of the Court of Industrial Relations."

This particular provision has now changed the jurisdictional competence of the Court of Industrial Relations in wage cases. Under Section 16(b), as amended, the jurisdiction of the Court of Industrial Relations to compulsorily arbitrate wage cases covers two types of cases. First, cases involving claims for payment of minimum wages, provided there is an employer-employee relationship, or in its absence the claimant seeks reinstatement. When any of these conditions is absent, the claim comes under the jurisdiction of the regular courts. Second, claims for minimum wages above the applicable statutory minimum in particular or single firm, enterprise or employer. When the dispute as to minimum wages above the applicable statutory minimum is on an industry-wide basis, jurisdiction is lodged with the Wage Commission, by virtue of Sections 4, 5, and 16(b) of the Minimum Wage Law, as amended.