SUPREME COURT
EN BANC

FREE TELEPHONE WORKERS UNION,
***Petitioner*,**

-versus-

G.R. No. L-24827
April 27, 1982

PHILIPPINE LONG DISTANCE TELEPHONE COMPANY and COURT OF INDUSTRIAL RELATIONS,
***Respondents*.**
x----------x

D E C I S I O N

MAKASIAR, *J.*:

Petitioner seeks a review of the July 6 and 16, 1965 orders and the July 31, 1965 en banc resolution of the now defunct Court of Industrial Relations in CIR Case No. 51-IPA (2), captioned "Free Telephone Workers Union, petitioner, versus Philippine Long Distance Telephone Company, respondent."

Pertinent to the resolution of the instant petition are the following facts on record.

On November 1, 1964, petitioner declared a strike against respondent company to break an impasse over negotiations on a 20-point

economic demand, among which was a demand for wage increase covering a period of three years — 1964 to 1967.

On November 3, 1964, the President of the Philippines, upon authority of Section 10 of Republic Act No. 875 (Industrial Peace Act), certified the labor dispute as one clearly affecting an industry indispensable to the national interests, to the Court of Industrial Relations, hereinafter referred to as respondent CIR. The case was docketed as CIR Case No. 51-IPA, entitled "Free Telephone Workers Union, petitioner, versus Philippine Long Distance Telephone Company, respondent."

On November 9, 1964, the respondent CIR, after hearing, issued a partial decision (Annex L, Petition, pp. 105-114, rec.), the pertinent dispositive portion of which runs as follows:

> "A. The Philippine Long Distance Telephone Company is hereby ordered to pay each of its rank and file employees, numbering 1,345 persons, the amount of Sixteen Centavos (P0.16) wage increase per hour from November 9, 1964, the date of this decision, and to run for a period of one (1) year thereafter;
>
> B. x x x
>
> "C. Pursuant to the provisions of Section 19, Commonwealth Act 103, as amended, the members of the Free Telephone Workers Union are hereby ordered to return to work immediately, and the Company is, in turn, ordered to accept them under the same terms and conditions of employment, in addition to the award herein above indicated while the other unresolved demands of the Union are under consideration. It shall be understood that during the pendency of this case, the Union, its members and/or agents shall not strike or walk out of their employment; and the Company shall not lockout its employees as public interest demands, considering that the Court, in its opinion, can not promptly settle or decide the dispute."

From the above November 9, 1964 partial decision, petitioner interposed an appeal with the Supreme Court mainly on the sufficiency of the amount granted as increase. The appeal was docketed as G.R. No. L-24593, entitled "Free Telephone Workers Union, petitioner, versus Philippine Long Distance Telephone Company, respondent." The Supreme Court affirmed on July 31, 1970 the November 9, 1964 decision of the respondent CIR and held that the sixteen centavo (P0.16) increase per hour per employee effective for a period of one (1) year from November 9, 1964 was supported by substantial evidence (34 SCRA 44).

On March 3, 1965, petitioner and respondent company entered into an agreement which partly provides:

> "In order to insure harmonious labor management relations in the COMPANY while CIR No. 51-IPA, or any incident thereof, is still pending final resolution by the courts, the parties hereto have agreed as follows:
>
> x x x
>
> "4. Hereafter disputes or misunderstandings that may arise by and between the COMPANY, on the one hand, and the UNION and/or any employee belonging to the bargaining unit it represents, on the other hand, shall be referred to the President of the UNION and the Controller of the COMPANY for possible settlement. A sincere attempt will be made to settle the dispute or misunderstanding amicably. If the dispute or misunderstanding is not settled amicably, the dispute or misunderstanding shall be submitted to the courts for final disposition as incidents of CIR Case No. 51-IPA" (Emphasis supplied).

Meanwhile, or on April 21, 1965, Republic Act No. 4180 was enacted, raising the minimum wage to P6.00 a day. Accordingly, respondent company increased the wages of its workers who were receiving below P6.00 a day, in addition to the P0.16 per hour previously awarded by the respondent CIR in its partial decision of November 9, 1964.

On April 27, 1965, petitioner asked for wage readjustment negotiations with the respondent company, claiming that when the respondent company automatically raised the minimum wages of its employees receiving less than P6.00 a day in compliance with R.A. 4180, a proportionate increase with respect to those employees already receiving P6.00 a day at the effectivity of R.A. 4180 should be subject of negotiations. Respondent company countered that it could not negotiate with petitioner on the matter because such wage readjustment would in effect be a wage increase which was connected with the wage increase demand of petitioner in the pending case certified on November 3, 1964 by the President of the Philippines.

Consequently, petitioner presented on May 6, 1965 to respondent company a demand for an automatic P0.25 per hour wage increase for all rank-and-file employees receiving above P0.75 per hour on account of the implementation of the new statutory minimum wage of P6.00 a day.

On May 17, 1965, when Case No. 51-IPA, was still pending decision, petitioner again filed a notice of strike with the Department of Labor for refusal of respondent company to negotiate on its demand for wage adjustment under Republic Act No. 4180, which allegedly constitutes unfair labor practice.

On June 2, 1965, respondent company, sensing that petitioner would really go on strike, filed with respondent CIR a petition for the issuance of writ of preliminary injunction as an incident of pending Case No. 51-IPA and was thus docketed as Case No. 51-IPA(2) (pp. 25-28, rec.). Respondent company prayed therein of the respondent CIR to enjoin petitioner from striking as petitioner and respondent company had previously agreed on March 3, 1965 to submit all further disputes to the respondent CIR and that a strike under the situation would violate respondent CIR's November 9, 1964 order (pp. 25-29, rec.).

On June 3, 1965, petitioner filed a motion to dismiss the aforesaid petition of June 2, 1965 on the ground that respondent CIR has no jurisdiction to consider it.

On July 6, 1965, the respondent CIR acting in Case No. 51-IPA (2) confirmed the action of the Hearing Examiner therein and issued a temporary restraining order enjoining petitioner from declaring a strike or any specie thereof during the pendency of the issue of jurisdiction (p. 32, rec.).

On July 7, 1965, petitioner filed with the respondent CIR a motion for reconsideration of the aforesaid order, alleging substantially the same grounds contained in its June 3, 1965 motion to dismiss (pp. 33-34, rec.). On the same day, petitioner, declared a strike. According to petitioner, the strike was precipitated by the [1] summary dismissal of two of its members without a prior investigation at which it should be represented, and (2) respondent company's continued refusal to negotiate on its demand for wage readjustment (p. 4, rec.).

On July 8, 1965, respondent company filed with the respondent CIR an urgent motion to declare the July 7, 1965 strike of petitioner illegal, the same being violative of the no-strike order of July 6, 1965 and the court's partial decision of November 9, 1964, and praying that the strikers be ordered to return to work or else forfeit their jobs (pp. 36-40, rec.). Respondent company further prayed therein that petitioner and its officers and agents and/or sympathizers be directed to lift and remove the pickets posted in the different premises of the company and that the strike of the petitioner be declared illegal and the officers of the petitioner be held in contempt of court and, therefore, to have lost their status as employees effective July 7, 1965, the date of the strike.

On July 9, 1965, petitioner moved to dismiss the aforesaid respondent company's urgent motion (pp. 41-43, rec.).

On July 16, 1965, after due hearing, the trial judge of respondent CIR issued an order denying petitioner's June 3, 1965 motion to dismiss respondent company's June 2, 1965 petition for the issuance of writ of preliminary injunction, the pertinent dispositive portion of which runs as follows:

> "WHEREFORE, the motion to dismiss, dated June 3, 1965, and filed on the same date, is hereby DENIED, for lack of merit. Pursuant to the Partial Decision in relation to Section 19 of C.A.

> 103, as amended, the petitioner union, its officers, agents and/or assigns and sympathizers are hereby directed to call off the strike declared on July 7, 1965, and to lift the picket lines established in and around the premises of respondent company's various offices and installations in Manila, Quezon City, Pasay City, Caloocan City, Dagupan City, Baguio City, San Pablo City, Iloilo City, Bacolod City, Cebu City, Zamboanga City, Makati, Rizal, Mandaluyong, Rizal, San Juan, Rizal, San Fernando, Pampanga, Mabalacat, Pampanga, Lucena, Quezon and Baler, Quezon. The persons manning the picket lines in these places are hereby enjoined from impeding and interfering with the implementation of this Order as well as from interfering in any manner with the operations of respondent. The striking employees ore hereby directed to return to work within three (3) days from receipt of copy of Order by petitioner; otherwise, if they or any of them fail to do so, considering that as has been found by the President of the Philippines the business of respondent is coupled with national interest, the management of respondent is hereby authorized to replace any and all of them in virtue of Section 19 of C.A. 103, as amended, provided however, that the employees who shall have been replaced may be reinstated by the Court after due hearing and after establishing good and valid grounds for their failure to return to work as herein directed" (pp. 54-55, rec., Emphasis supplied).

On July 17, 1965, petitioner, without first returning to work as above directed, filed with the respondent CIR its motion for reconsideration of the aforesaid July 16, 1965 order.

With the above motion for reconsideration still enacted upon by the respondent CIR, petitioner on July 19, 1965 filed with this Court its urgent petition for certiorari and prohibitory and mandatory injunction docketed as G.R. No. L-24755, questioning the power and jurisdiction of respondent CIR.

On July 20, 1965, this Court dismissed the aforesaid petition for "being premature and for lack of merit" (p. 69, rollo of G.R. No. L-24755).

Back to the respondent Court. On July 31, 1965 respondent CIR denied petitioner's July 17, 1965 motion for reconsideration of the July 6 and 16, 1965 orders of the trial judge, Ansberto Paredes, thus:

> "These are two separate motions both filed by petitioner FREE TELEPHONE WORKERS UNION, thru counsel, seeking reconsideration of two separate orders of the Trial Court dated July 6 and 16, 1965, respectively. The Court en banc is sufficiently guided by the written arguments therein presented and hence, there is no necessity for an oral argument.
>
> "After a careful perusal of the records as well as the arguments of both parties, the Court en banc fails to find sufficient justification for altering or modifying the aforesaid orders.
>
> "BOTH MOTIONS DENIED." (Annex J, Petition, p. 79, rec.).

Hence, this recourse of petitioner, questioning the validity of the aforesaid July 6 and 16, 1965 orders of the CIR and the July 31, 1965 en banc resolution of respondent CIR. The order of July 6, 1965 enjoined petitioner union from declaring a strike or any specie thereof during the pendency of the issue raised in its motion to dismiss.

On the other hand, the order of July 16, 1965.

a. directed petitioner union, its officers, agents and/or assigns and sympathizers:

   (1) to call off the strike declared on July 7, 1965; and

   (2) to lift the picket lines established in and around the premises of respondent company's various offices and installations.

b. enjoined the persons manning the picket lines in these places from impeding and interfering with the implementation of said order as well as from interfering in any manner with the operations of respondent;

c. directed the striking employees to return to work within three (3) days from receipt of a copy of the order by petitioner; and

d. authorized respondent company to replace any and all of such striking employees, who fail to return to work within the said period of three (3) days, provided that employees who shall have been replaced may be reinstated by the Court after due hearing and after establishing good and valid grounds for their failure to return to work as directed in the order.

WE have meticulously and painstakingly analyzed the arguments pro and con of counsel for the contending parties, as well as the issues raised and discussed by counsel for petitioner under the errors allegedly committed by the court a quo. WE find, however, that the real and principal issue in the case at bar is whether or not the orders of July 6 and July 16, 1965, which were both affirmed by the respondent court en banc, were validly issued. In other words, the issue is one of jurisdiction.

I

Petitioner contends in its third assignment of error that inasmuch as its second demand for wage increase was prompted by the passage on April 21, 1965 of Republic Act No. 4180, otherwise known as the Minimum Wage Law, said demand could not have been envisioned by the President of the Philippines when he certified the labor dispute, subject of CIR Case No. 51-IPA, to the CIR on November 3, 1964. Hence, said demand was different from and outside the scope of certified Case No. 51-IPA, since the strike of July 7, 1965, which petitioner declared and staged arose due to the refusal of respondent company to grant the second demand for wage increase long after the certification of the President of the Philippines of November 3, 1964. Therefore, according to the petitioner, the dispute, subject matter of 51-IPA (2), is outside the jurisdiction of respondent court.

Petitioner's contention is untenable. One of the principal issues in the labor dispute between petitioner and respondent company which was certified by the President of the Philippines on November 3, 1964 and

docketed as CIR Case No. 51-IPA is the issue of wage increases. During the conciliation stage of this case it was made clear that the wage increase demanded by petitioner are on a staggered 3-year basis (Partial Decision on November 9, 1964). The 3-year period covered by the wage issue in the main case runs from November 9, 1964, the date the partial decision was promulgated, as the starting point for the 3-year staggered increases, and to last until November 8, 1967. The partial decision of November 9, 1964 in certified case No. 51-IPA, which resolved petitioner's first strike declared on November, 1964, had settled the matter of wage increase for the first year of the 3-year period, i.e., from November 9, 1964 to November 8, 1965. This is precisely why on March 3, 1965, petitioner and respondent company entered into an agreement whereby, "in order to insure harmonious labor management relations in the company while CIR Case No. 51-IPA, or any incident thereof, is still pending final resolution by the courts, disputes or misunderstandings that may arise between the company, on the one hand, and the union and/or any employee belonging to the bargaining unit it represents, on the other hand, shall be referred to the President of the Union and the Controller of the company for possible settlement."

It, therefore, clearly appears that the second union demand for wage increase in May, 1965, which gave rise to the instant case was made within the same period covered by respondent court's partial decision of November 9, 1964 granting petitioner a wage increase of P0.16 per hour. The same demand is likewise covered by the provision of the March 3, 1965 agreement.

Besides, CIR Case 51-IPA(2) is but an incidental case or an ancillary proceeding to CIR Case No. 51-IPA, the main case. When the main case was thrown to the CIR's lap by Presidential directive, the CIR assumed jurisdiction over it, together with all its incidents. Hence, no independent jurisdiction is needed to enable the CIR to take cognizance of the ancillary action, much less any incident thereof (Cebu Portland Cement Co. vs. Cement Workers Union, 45 SCRA 337, 342; Talisay-Silay Milling Co., Inc vs. CIR, 18 SCRA 894, 898 [1966] and Bachrach Transportation Co., Inc. vs. Rural Transit Shop Employees Association, 20 SCRA 779, 785 [1967]). In the Talisay-Silay case, We stated that ". it has been held that where a Federal court has jurisdiction of a claim and the parties in the principal

action, it generally has jurisdiction also of a suit or proceeding which is a continuation of or incidental and ancillary to the principal action, even though it might not have jurisdiction of the ancillary proceeding if it were an independent and original action or proceeding. The jurisdiction of the ancillary suit or proceeding is referrable to or dependent upon the jurisdiction of the court over the principal suit or proceeding (United States vs. Accord, 209 2d 709 [1954]; Accord, Morrel vs. United Airline Transport Corp., 29 F Supp. 757 [1939]).” And in the Cebu Portland Cement Co. case, WE declared that “the labor dispute between the employer and the striking employees had been certified by the President of the Philippines to the Court of Industrial Relations, and the certification confers upon the said court exclusive jurisdiction to pass upon the controversy (Sec. 10, R.A. 825; PAFLU vs. Tan, 99 Phil. 875; Talisay-Silay Milling Co. vs. CIR, L-21582, 29 November 1966, 18 SCRA 894, and others) and other matters connected therewith.” There is therefore no justification for petitioner’s contention that for the CIR to assume jurisdiction over CIR Case 51-IPA(2), another presidential directive is necessary. In this connection, the pertinent portions of the questioned July 16, 1965 order as affirmed by the July 31, 1965 resolution of the respondent court en banc is worth quoting as it demonstrated the lack of merit of petitioners’ stand, thus:

x x x

> “But petitioner contends that the ‘present dispute’ being based on R.A. 4180 which became law only on April 22, 1965, is outside the Presidential Certification of November 3, 1964 and, therefore. should not be considered with the certified labor dispute (page 8, t.s.n., of July 9, 1965). For this reason, the jurisdiction of the Court is challenged. However, the facts obtaining in the main case negate petitioner’s contention. As clarified in the conciliation stage of the proceedings, the wage increase issue is on the staggered three year basis. ‘There being an impasse’ on this issue ‘the Court proceeded to receive evidence of the parties on the appropriateness of granting a reasonable increase of wages’ (Page 7, Partial Decision of November 9, 1964). In other words, the Court had begun to exercise its compulsory arbitration powers, as outlined in Section 10 R.A. 875, by ‘fixing the terms and conditions of

employment particularly on the wage increase issue. In the Partial Decision, the Court did not only fix the amount of wage increase per hour for the first year but also fixed the period to be covered by it, which is from November 9, 1964, the date of the decision, and to run for a period of one (1) year thereafter.' The time aspect of the Partial Decision was not appealed by the petitioner to the Court En Banc nor to the Supreme Court. Since the wage increase issue, submitted to the Court for decision comprises a period of three (3) years from November 9, 1964, any demand for another wage increase made within the same period is covered by the certified labor dispute, and since the Court has already began to exercise its powers of compulsory arbitration, such a demand should be brought to it in the manner provided by C.A. 103, as amended. Clearly such is the '. present dispute .' so called by the petitioner, generated by the demand and strike notice of petitioner based on wage adjustment on account of the passage of R.A. 4180 fixing a new statutory minimum wage of P6.00. Petitioner's counsel tried to differentiate wage increase from wage adjustment, but, considering the admission of counsel that the adjustment involves employees already receiving P6.00, the adjustments above P6.00 are in fact wage increases themselves. If Republic Act No. 4180 has any bearing at all on the issue of wage increases, it is only insofar as it may be used as a justification of the increase or a factor in deciding the said issue. This was precisely what petitioner itself did when it made mention of the passage of the Act in its Memorandum of May 3, 1965, filed in support of its stand on the wage increase for the second and third years.

"It may then be asked — how may petitioner now avail of R.A. 4180 as factor in deciding the wage increase for the first year in its favor when that issue has already been decided by the Court? The ruling laid down by the Supreme Court in 'Compania Maritima, et al. vs. Phil. Marine Radio Officers' Ass'n., G.R. No. L-10115, has been relied upon by petitioner itself in the Supreme Court (G.R. No. L-24593). It has been ruled in that case that in providing for Section 10 in R.A. No. 875.' The evident intention of the law is to empower the Court of Industrial Relations to act in such cases, not only in the manner

> prescribed under Commonwealth Act No. 103, but with the same broad powers and jurisdiction granted by that Act.' In other words, the effect of a Presidential certification of a labor dispute to the Court under Section 10 of R.A. 875 is the revival of the compulsory powers of the Court under C.A. 103. Section 17 of C.A. 103 provides a clear remedy to petitioner in order that it could avail itself of the effect of the passage of R.A. 4180. Pursuant to this legal provision, it could seek the modification, alteration or setting aside or the reopening of the Partial Decision.
>
> x x x
>
> (pp. 48-51, rec.).

Parenthetically, it must be pointed out that petitioner's appeal from the November 9, 1964 Partial Decision on the question of the amount of increase granted therein has been decided by this Court on July 31, 1970 (Free Telephone Workers Union vs. PLDT, G.R. No. L-24593) wherein WE affirmed the said November 9, 1964 Partial Decision of respondent court. There are supervening facts and circumstances revealed in that decision of OURS which WE, feel render moot petitioner's stand on the aforesaid issue of jurisdiction as said facts and circumstances disclose petitioner's implied recognition of the authority of respondent court to issue the questioned July 16, 1965 order and July 31, 1965 resolution. WE quote:

> "Not to be overlooked in viewing the Union's demand in a balanced perspective is the fact that on November 26, 1965, after the instant petition for review was filed, the Court of Industrial Relations rendered a 'Third Partial Decision,' wherein the rank and file employees represented by the union were granted a wage increase of P0.16 per hour for the second year, effective November 9, 1965, and another increase of P0.18 per hour for the third year, effective November 9, 1966. With the previous increase of P0.16 for the first year, effective November 9, 1964, the total gained at the start of the third year as a result of the initial demands which gave rise to this case, was P0.50 per hour.

"Although the third partial decision aforesaid is not the subject of review herein, We note nevertheless that the lower court has made therein a detailed analysis of the respondent company's financial situation and found that in 1964 it made a net return of 6.25% on its investment. The projection made by the same court, if a yearly increase of P0.16 per hour was granted for the next two years, was that the company would realize a net return of 7.55% in 1965, 4.9% in 1966, and 1.84% in 1967. In fact, however, the increase actually granted for the third year effective November 9, 1966, was two centavos per hour more than that which was made the basis of the projection.

"These observations, of course, in no way constitute an affirmance of the lower court's third partial decision, which is not under review herein, but are made only to underscore the fact that the increase now challenged by the union as insufficient is supported by substantial evidence. Indeed, it has been pointed out in its brief by the respondent company, without any denial on the part of the petitioner-appellant, that the latter appears to consider the additional wage increases as reasonable and did not even move for their reconsideration" (pp. 50-51).

With the above finding that the Court of Industrial Relations had jurisdiction over the subject incident (CIR Case No. 51-IPA[2]) the first, second, fourth, and fifth assigned errors must perforce fall as they are principally anchored on the lack of jurisdiction of the Court of Industrial Relations over the said incident.

1. However, with respect to the first error assigned, petitioner injects a constitutional issue in that the respondent CIR's order of July 16, 1965 violates the constitutional guarantee of freedom of speech because it called for the lifting of peaceful picket lines. Indeed, it is now well-settled that peaceful picketing cannot he restrained because the same is part of the freedom of speech (PCIB vs. PNBEA, 105 SCRA 314, 318 [1981]; Associated Labor Union vs. Gomez, 96 SCRA 551 [1980]; Mortera vs. CIR, 79 Phil. 345 [1947]; PAFLU vs. Barot, 99 Phil. 1008 [1956]; De Leon vs. NLU, 100 Phil. 789 [1957]). But petitioner fails to realize that the questioned

July 16, 1965 order of the Court of Industrial Relations did not refer to peaceful picketing. For the order partly reads, thus:

> "Pursuant to the Partial Decision in relation to Section 19 of C.A. 103; as amended, the petitioner union, its officers, agents and/or assigns and sympathizers are hereby directed to call off the strike declared on July 7, 1965, and to lift the picket lines established in and around the premises of respondent company's various offices and installations in Manila, Quezon City, Pasay City, Caloocan City, Dagupan City, Baguio City, San Pablo City, Iloilo City, Bacolod City, Cebu City, Zamboanga City, Makati, Rizal, Mandaluyong, Rizal, San Juan, Rizal, San Fernando, Pampanga, Mabalacat, Pampanga, Lucena, Quezon and Baler, Quezon. The persons manning the picket lines in these places are hereby enjoined from impeding and interfering with the implementation of this Order as well as from interfering in any manner with the operations of respondent." (Emphasis supplied).

In Mortera, supra, where the therein questioned order partly declared that "picketing under any guise and form is hereby prohibited," this Court ruled that the "order of the Court of Industrial Relations prohibiting picketing must be understood to refer only to illegal picketing, that is, picketing through the use of illegal means. Peaceful picketing cannot be prohibited. It is part of the freedom of speech guaranteed by the Constitution. Therefore, the order of the Court of Industrial Relations must be understood to refer only to illegal picketing, that is, picketing through the use of illegal means" (p. 351).

In this case, the questioned order should also be taken as limited to the lifting of the picket lines which constituted illegal picketing especially so because it expressly stated that the petitioner union and its officers, agents or sympathizers "are hereby directed to call off the strike declared on July 17, 1965, and to lift the picket lines established in and around the premises of respondent company's various offices and

installations. The persons manning the picket lines in these places are hereby enjoined from impeding and interfering with implementation of this Order as well as from interfering in any manner with the operations of respondent."

2. Under its second assignment of error, petitioner contends that respondent could not validly authorize respondent company to replace those striking employees who failed to return to work within the time specified in the July 16, 1965 order as no hearing on the issue of termination of employee status had yet been conducted by the respondent court. The questioned order in part reads:

> "The striking employees are hereby directed to return to work within three (3) days from receipt of a copy of this Order by petitioner; otherwise, if they or any of them fail to do so, considering that as has been found by the President of the Philippines the business of respondent is coupled with national interest, the management of respondent is hereby authorized to replace any and all of them in virtue of Section 19, of C.A. 1023, as amended, provided however, that employees who shall have been replaced may be reinstated by the Court after due hearing and after establishing good and valid grounds for their failure to return to work as herein directed."

And aforesaid Section 19 of C.A. 103, as amended, provides:

> "Implied condition in every contract of employment. In every contract of employment or tenancy, whether verbal or written, it is an implied condition that when any dispute between the employer or landlord and the employee, tenant or laborer has been submitted to the Court of Industrial Relations for settlement or arbitration, pursuant to the provisions of this Act, and pending award or decision by it, the employee, tenant or laborer shall not strike or walk out of his employment when so enjoined by the Court, after hearing and when public interest so requires, and if he has already done so, that he shall forthwith return to it, upon order of the Court, which shall

> be issued only after hearing when public interest so requires or when the dispute cannot, in its opinion, be promptly decided or settled; and if the employees, tenants or laborers fail to return to work, the Court may authorize the employer or landlord to accept other employees, tenants or laborers."

It is thus clear that this provision vests respondent court under the obtaining circumstances of this case with full authority to direct the striking employees to forthwith return to their work and to allow the respondent company to replace those workers who would choose to defy the court's directive. It must be stressed that the aforesaid authority of the respondent company to replace arises only from the failure of the workers to return to work. In other words, the workers are not being terminated by reason of the strike but because of their failure to return to work despite the order of the respondent court. It is a sanction to enforce petitioner's obedience to the court's order. While termination by reason of an illegal strike requires hearing, replacement by reason of violation of a return-to-work order does not. For such sanction is merely provisional and an expedient to enable the respondent company to comply with its duties and functions which are very closely related to the interests of the public, it being involved in an industry affecting national interest. Moreover, such provisional remedy is calculated to minimize the injurious effects of the strike on the respondent company and its clients as well as on the public. After all, by the very terms of the questioned order, "the employees who shall have been replaced may be reinstated by the Court after due hearing and after establishing good and valid grounds for their failure to return to work as herein directed."

As a matter of fact, the employees replaced by the respondent company pursuant to the herein questioned orders were subsequently ordered reinstated by the respondent CIR in its order of November 4, 1965 and affirmed by the CIR en banc on November 29, 1965 which order of reinstatement was upheld on appeal by this Court in the related case of Philippine Long Distance Co. vs. Free

Telephone Workers Union, G.R. No L-25420 (22 SCRA 1013 [1968]. However, all the subject employees except three (3) union officers were sternly warned for having disobeyed the partial decision of November 9, 1964 and the orders of July 6 and 16, 1965. The aforesaid union officers were ordered suspended for three (3) months for having defied the aforestated orders.

WE held among others in that case that:

> "As to the reliance by Philippine Long Distance Telephone Company on the Court of Industrial Relations' authorization to hire replacement, said authorization order dated July 16, 1965 expressly provided that replacements be temporary, that is, subject to the power of the Court of Industrial Relations to subsequently order reinstatement of replaced employees. And thus, Philippine Long Distance Telephone Company's contention that it can no longer reinstate the 26 employees in question because it had hired permanent replacements in their positions by virtue of the Court of Industrial Relations' authorization order, is plainly untenable. Said order precluded the hiring of permanent replacements.
>
> "Philippine Long Distance Telephone Company finally contends that at any rate it has the power to dismiss the 26 employees in question for serious misconduct on their part constituting in their having induced strikers not to return to work in the face of the orders of the Court of Industrial Relations to the contrary. Such contention deserves no serious consideration because Philippine Long Distance Telephone Company had admitted that its dismissal of said employees was pursuant to and under the authority granted by the Court of Industrial Relations to replace strikers who failed to return to work. And consequently said dismissal must be subject to the conditions provided for in said authority regarding the power of the Court of Industrial Relations to order their reinstatement."

3. WE go to the last two errors imputed to the respondent court. It is claimed that the respondent court erred in giving the company injunctive relief without the company exhausting all remedies to negotiate with the petitioner (4th assigned error) and in issuing the July 6 and 16, 1965 orders without regard to the procedural requirements of due process (5th assigned error).

Both assigned errors are without merit.

WE have already established and ruled that the subsequent demand for wage increase which precipitated the second strike by petitioner was merely an incident of the main case, CIR Case No. 51-IPA and therefore the conceded jurisdiction of the respondent court over the main case (CIR Case No. 51-IPA) carried with it authority to take cognizance of the aforesaid incident subject of CIR Case No. 51-IPA (2). Consequently, as the subject incident is part of the main case, which was then already subject to compulsory arbitration, negotiation was no longer necessary. Precisely, the decision of November 9, 1964, was just a PARTIAL DECISION covering only the first year phase of the three-year wage increase demand involved in said main case and the last 2-year phase still remains to be resolved.

With respect to the claim that procedural requirements of due process were disregarded in the issuance of the July 6 and 16, 1965 orders of the respondent court, it must be stressed that the said orders were issued by the respondent court on the premise that the incident subject of CIR Case No. 51-IPA (2) was part of CIR Case No. 51-IPA and therefore as already emphasized, the jurisdiction of the respondent court over CIR Case No. 51-IPA necessarily includes its authority over CIR Case No. 51-IPA (2). Under its November 9, 1964 Partial Order in CIR Case No. 51-IPA, it was ordered, among others, that "during the pendency of this case, the Union, its members and/or its agents shall not strike or walk out of their employment; and the Company shall not lock out its employees as public interests demand, considering that the Court, in its option, cannot promptly settle or decide the dispute." Hence, when respondent court issued the questioned July 6 and 16, 1965 orders it was merely enforcing the said November 9, 1964 Partial Decision by requiring the striking workers

to return to work under pain of being replaced. And as WE have already pointed out in our resolution of the second issue, this did not constitute a resolution on the merits of the issue of termination of employee status but only as a provisional sanction to secure obedience from the recalcitrant and defiant strikers which does not require prior hearing.

Besides, petitioner filed a motion to dismiss the petition of respondent company and thereafter a motion for reconsideration of the order denying the same; hence, whatever deficiency could be imputed to the assailed orders was considered cured by the aforesaid motions. Thus, they were not only given an opportunity to be heard, but actually were heard (Beng vs. City Sheriff of Manila, 83 SCRA 229, 233 [1978], citing several cases). Moreover, the questioned orders were based on sufficient facts contained in the record and disclosed to both parties (Ang Tibay vs. CIR, 69 Phil. 635 [1940]). It cannot therefore be properly asserted that the aforesaid orders of respondent CIR were issued without due regard to procedural due process.

There is therefore no justification for the reversal of the questioned orders of the respondent CIR.

WHEREFORE, The July 6 and 16, 1965 Orders and the July 31, 1965 En Banc Resolution of the Respondent Court Of Industrial Relations are hereby Affirmed. No Costs.

SO ORDERED.

Fernando, *C.J.*, Teehankee, Barredo, Fernandez, Guerrero, De Castro, Melencio-Herrera, Ericta, Plana and Escolin, *JJ.*, concur.
Aquino, *J.*, took no part.
Concepcion, Jr. and Abad Santos, *JJ.*, are on leave.