SUPREME COURT
EN BANC

MANILA RAILROAD COMPANY, ET AL.,
***Petitioners*,**

-versus-

G.R. No. L-19728
July 30, 1964

KAPISANAN NG MGA MANGGAGAWA SA MANILA RAILROAD COMPANY, ET AL.,
***Respondents*.**
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D E C I S I O N

BAUTISTA ANGELO, *J.*:

On June 15, 1961, a prosecutor of respondent court filed a complaint for unfair labor practice against petitioners in behalf of some employees alleging that said petitioners failed to classify the complainants as permanent employees notwithstanding their more than 20 years of service for the reason that they are members of respondent union and had committed other acts of discrimination against them. These acts are: that the railroad company refused to comply with certain stipulation contained in the collective bargaining agreement entered into between the company and the union because of complainants' affiliation and union activities; and that petitioners

refused to grant complainants a privilege pass each because they were going to Manila to see their union president to complain about their present employment status.

Petitioners filed an answer denying the material averments of the complaint and setting up the following defenses: the complainants were merely casual or temporary laborers who do not work continuously for a period of six months; their services were merely subject to the needs of the company and as such did not warrant their conversion to permanent employees; petitioners were not aware of the affiliation or union activities of complainants; complainants are not entitled to privilege passes inasmuch as they are not regular employees of the company; the complaint was premature for having been filed contrary to the collective bargaining agreement entered into between complainants and petitioners which sets a procedure to be complied with before a complaint of this nature could be filed in court; and complainant has no legal personality to file this complaint because the Benguet Auto Line Employees' Union is the sole and exclusive bargaining representative that could represent them for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, and other related subjects.

After due hearing, his Honor Baltazar M. Villanueva, Associate Judge, rendered decision finding petitioners guilty of unfair labor practice as charged, and ordering them to accord permanent status to complainants as bus workers or truck helpers, thereby placing them in the roll of permanent employees. In due time, petitioners filed a motion to reconsider alleging, among others, that the decision is contrary to law and the evidence, and when the motion was denied by the court en banc in an split resolution, petitioners interposed the present petition for review.

As found by the respondent court, the complainants were pre-war employees of the Benguet Auto Lines, being either bus washers or truck helpers. They entered the service of said company since 1932, but despite the fact that they served the company for more than 20 years their status as casual laborers has never been changed in spite of the repeated requests made by them or by the union to which they are affiliated. Respondent court expressed the view that since these complainants were holding positions which do not need any civil

service eligibility nor any special educational qualification for the work they are performing, no reason is seen why they could not be given a permanent appointment as authorized by Article XI of the collective bargaining agreement entered into between the complainant union and the Manila Railroad Company on December 23, 1960, even if they received their back pay before and during the enemy occupation. The only reason that can be advanced for such indifferent attitude towards them is the fact that they are affiliated with the complainant union which apparently does not have the sympathy of their employer.

We find this observation of respondent court well taken considering that the complainants are pre-war employees and that notwithstanding their length of service without any indication that they had committed any improper act or behavior that may render them unfit or inefficient, they have never been given any permanent status to give them come feeling of security in their employment in spite of the fact that others who entered the service merely in 1957 or 1959 in the same capacity as bus workers or truck helpers were readily given the status of permanency thereby showing the discrimination committed against complainants. And it is not correct to claim, as petitioners do, that the complainants could not be extended permanent appointments because of the absence of vacant and existing positions commensurate with their qualifications in petitioners' budget and plantilla, for, as the evidence shows; during the period of 1957 to 1959 four new employees were taken in as bus workers or truck helpers and right from the start they were given permanent appointments. We refer to the appointment of Filemon Lopez as laborer on July 1, 1957, the appointment of Basilio Leonardo as bus worker on November 1, 1959, the appointment of one Claustro as bus worker and helper on November 1, 1959, and the appointment of Felix Gomez as bus worker and truck helper on November 1, 1959.

The contention that these new employees were also members of the union to which the complainants belong cannot justify their discrimination for it is not difficult to see that being newcomers they cannot have more merit, preparation and experience than complainants who have been in the service for more than 20 years. The claim that the complainants were not given permanent assignment because they refused to go to Baguio does not also

deserve consideration because it appears that these complainants had precisely signed a joint manifestation stating that they are willing to accept that assignment even if they have to reside in Baguio provided that their appointments be made permanent.

The above are the findings made by respondent court from the evidence extant in the record, and the same has not been successfully disputed. And it appearing that complainants were discriminated against because of their affiliation and union activities, the charge of unfair labor practice involved herein is justified, as found by the court a quo.

WHEREFORE, the decision appealed from is affirmed. No costs.

Bengzon, *C.J.*, Padilla, Concepcion, Reyes, Paredes, Regala and Makalintal, *JJ.*, concur.
