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SUPREME COURT
EN BANC

PHILIPPINE AIR LINES EMPLOYEES' ASSOCIATION (PALEA),
***Petitioner*,**

-versus-

G.R. No. L-32740
March 31, 1971

PHILIPPINE AIR LINES, INC. and THE COURT OF INDUSTRIAL RELATIONS,
***Respondents*.**
x----------x

D E C I S I O N

MAKALINTAL, *J.*:

The petitioner, Philippine Air Lines Employees' Association (PALEA), seeks a review of two orders issued by Judge Ansberto P. Paredes of respondent Court of Industrial Relations (CIR) on October 7 and 10, 1970, respectively, in Case No. 101-IPA (A) being tried before him, and the resolution of the same Court En Banc dated October 19, 1970.

PALEA, as the bargaining representative of the employees Or respondent Philippine Air Lines, Inc., (PAL) presented a set of demands to the latter, among them increases in pay. Voluntary conciliation proceedings between the parties followed, through the

mediation of the Bureau of Labor Relations, and when no settlement was agreed upon PALEA went on strike on September 30, 1970. On October 3, 1970 it was joined by the Air Line Pilots Association (ALPAP).

Pursuant to Section 10 of Republic Act No. 875 the President certified the dispute to the CIR on October 3, 1970, enumerating some of the essential services being rendered by PAL and pointing out that "the suspension of (its) operations will jeopardize the national interest, national defense, air transportation of passengers and cargoes, which include newspapers and general merchandise." Judge Paredes called union and management to a conference to be held at the court session hall on October 6 through October 10. On October 7, 1970, after the parties had conferred for two days, the trial Judge concluded that since the vital issue common to both the striking unions involved their economic demands and since its resolution would require an examination of the books of respondent PAL concerning its financial capacity, which examination would take time, and on the other hand, "that public as well as national interests have been unduly prejudiced and jeopardized by the week-old strike," he granted immediate provisional increases in pay and at the same time issued a return-to-work order on October 7, 1970. The pertinent portion of the said order reads as follows:

> "PALEA and ALPAP, their officers and members, and all employees who have joined the present strikes which resulted from the labor disputes certified by the President to the Court, or who have not reported for work as a result of the strikes, are hereby ordered forthwith to call off the strikes and lift the picket lines and return to work not later than Friday, October 9, 1970, and management to admit them back to work under the same terms and conditions of employment existing before the strikes, including what has been earlier granted herein.
>
> "PAL is ordered not to suspend, dismiss or lay-off any employee as a result of these strikes. Read into this order is the provision of Section 19, of C.A. No. 103, as amended, for the guidance of the parties.

x x x

> "Failure to comply with any provision of this Order shall constitute contempt of court, and the employee failing or refusing to work by October 9, 1970, without justifiable cause, shall immediately be replaced by PAL, and may not be reinstated without prior Court order and on justifiable grounds."

On October 8, 1970 PALEA filed with the CIR en banc a motion for clarification and/or reconsideration of the foregoing order, supporting the motion with a memorandum filed the next day.

On October 10, 1970 the trial Judge, having been informed that the strikes had not been called off, issued another order directing the strikers to lift their pickets and return to work, and explaining that his order of October 7 partook of the nature of a mandatory injunction.

On October 19, 1970 the CIR en banc, acting on the motion for clarification and/or reconsideration, issued a resolution affirming the basic return-to-work order of Judge Paredes.

After PALEA received a copy of the said resolution it filed a motion informing the CIR that after the order of October 10, 1970 was issued its members reported back for work but that PAL "converted their employment status to provisional workers, such that many refused such status and preferred to wait for the outcome of the motion for reconsideration;" that after the resolution en banc of October 19, 1970 the employees again reported for work and while the majority of them were admitted some were refused employment, consisting mostly of the officers of the union and numbering 21 in all, according to a list subsequently submitted.

The grounds relied upon by the petitioner in support of its petition are as follows:

> "A. Respondent CIR erred when it affirmed in its resolution of October 19, 1970 the orders of the Trial Judge Hon. Ansberto P. Paredes of October 7 and 10, 1970 holding that the return to work order was immediately executory and failure to comply with the same constitutes contempt of

court, notwithstanding the motion for reconsideration and/or clarification of said orders of October 7 and 10, 1970 filed with the respondent CIR en banc;

"B. Respondent CIR acted with grave abuse of discretion which is tantamount to lack of jurisdiction when it affirmed the orders of the Trial Judge, Hon. Ansberto P. Paredes without fixing the cut-off date for the striking employees to return to work on a date after the issuance of its resolution of October 19, 1970;

"C. Respondent CIR acted with grave abuse of discretion and in a manner contrary to jurisprudence, when it ordered the strikers to return to work without first determining the issue of the legality of the strike raised by respondent PAL;

"D. Respondent CIR acted with grave abuse of discretion when it failed to order respondent PAL to reinstate all the striking employees after having been informed that some of them were refused employment, pending the final determination of the issue of the legality of the strike and the motion for contempt of court;

"E. Respondent CIR acts with grave abuse of discretion which is tantamount to lack of jurisdiction when it continue to hear the motion to hold some strikers, particularly the officers of herein petitioner PALEA, in contempt of court for having failed to return to work on October 9, 1970 notwithstanding that the notice of appeal has been filed with it on November 2, 1970;"

On December 9, 1970 we gave due course to the petition and issued a temporary restraining order enjoining the respondent CIR "from continuing with the contempt proceedings in this case, effective immediately and until further orders from this Court."

On the first issue it has been held by this Court in several cases that a return-to-work order such as that in question here is immediately effective and executory, notwithstanding the fact that a motion for its reconsideration has been filed. It should be noted that this is a

certified case, the reason for the presidential certification being that the suspension of the operations of PAL would jeopardize the national interest. As stated by this Court in Philippine Long Distance Telephone Co. vs. Free Telephone Workers Union, 22 SCRA 1013, 1018: "The power to issue a return-to-work order is precisely given to the Court of Industrial Relations under Section 19 of Commonwealth Act 103 in a case certified thereto by the President, in which it acts under broad powers of compulsory arbitration (Bachrach Transportation Co. vs. Rural Transit, L-26764, July 25, 1967.)" The executory character of the return-to-work order issued in that case was, as we there said, not affected by the pendency of a motion for reconsideration thereof. The failure to comply with a similar order issued by the trial Judge in another case (Philippine Association of Free Labor Unions vs. Joaquin M. Salvador, et al., 25 SCRA 393) was condemned by this Court, speaking through Mr. Justice Enrique M. Fernando, in no uncertain terms. The very nature of a return-to-work order issued in certified case lends itself to no other construction. The certification attests to the urgency of the matter, affecting as it does an industry indispensable to the national interest. The order is issued in the exercise of the court's compulsory power of arbitration, and therefore must be obeyed until set aside. To say that its effectivity must await affirmance on a motion for reconsideration is not only to emasculate it but indeed to defeat its import, for by then the deadline fixed for the return to work would, in the ordinary course, have already passed and hence can no longer be affirmed insofar as the time element is concerned.

The foregoing considerations dispose of the second issue raised by the petitioner. Inasmuch as the order of Judge Paredes was immediately executory, the CIR en banc committed no abuse of discretion in not fixing a "cut-off date for the striking employees to return to work" after the resolution of October 19, 1970.

The third issue — whether or not the return-to-work order was properly issued when the question of the validity of the strike, raised by respondent PAL in another proceeding (Case No. 43 IPA), had not yet been resolved — is governed by the principle laid down by this Court in Feati University vs. CIR (G.R. Nos. L-21278, L-21462 and L-21500, Dec. 27, 1966; Maritima Co. of the Phil., et al., vs. CIR, et al.,

G.R. No. L-24811, March 3, 1967; and Philippine Long Distance Telephone Co. vs. Free Telephone Workers Union, supra.

In the last-mentioned case we said:

> "The present case involves a labor dispute certified by the President to the Court of Industrial Relations as affecting an industry indispensable to the national interest. As such, the rule that reinstatement of strikers should not be ordered where the strike's legality is still to be resolved, enunciated in Philippine Can Company vs. Court of Industrial Relation}, 87 Phil. 9; and Latex Products vs. Court of Industrial Relations, 93 Phil. 1024, does not apply. As this Court itself stated in the Philippine Can case: 'In such cases, pending determination of the conflict especially where public interest so requires or when the court cannot promptly decide the case the strikers are ordered back to work.'"

The fourth issue raised by the petitioner has to do with the failure of the CIR to order PAL to reinstate some 21 employees notwithstanding that they had offered to return to work. There is nothing in the orders here under review which shows that the respondent Court has definitely ruled against the reinstatement of said employees. Since they offered to return to work only after the resolution of the CIR en banc of October 19, 1970 was issued, affirming the order of the trial Judge dated October 7, 1970, their situation falls under the following portion thereof:

> "Failure to comply with any provision of this order shall constitute contempt of court, and the employee failing or refusing to work by October 9, 1970, without justifiable cause, shall immediately be replaced by PAL, and may not be reinstated without prior court order and on justifiable grounds."

In other words, the burden is upon the petitioner to show before the respondent court that reinstatement of the employees concerned is justified in spite of their failure to comply strictly with the return-to-work order, or that the refusal of PAL to reinstate them constitutes unjust discrimination, as they now claim. The particular questions, as well as the charge of contempt against some of the strikers, should be

entitled before the respondent court, where in fact they are now pending. Any ruling on the merits of these incidents by this Court at this stage of the case would therefore be premature.

WHEREFORE, the Petition is dismissed, and the restraining order issued by this Court is lifted, with costs against the petitioner.

Concepcion, *C.J.*, Reyes, Dizon, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor and Makasiar, *JJ.*, concur.

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