SUPREME COURT
FIRST DIVISION

PHILIPPINE CHARITY SWEEPSTAKES OFFICE, IGNACIO SANTOS-DIAZ, VICENTE G. MARTINEZ, FERNANDO C. SANTICO, MANUEL A. CONCORDIA, and MIGUEL CANIZARES,
***Petitioners*,**

-versus-

G.R. No. L-27546
July 16, 1982

THE ASSOCIATION OF SWEEPSTAKES STAFF PERSONNEL and GERONIMO QUADRA, and THE COURT OF INDUSTRIAL RELATIONS,
***Respondents*.**
x----------x

D E C I S I O N

GUTIERREZ, JR., *J.*:

This is a Petition to Review on *Certiorari* a Decision of the respondent Court of Industrial Relations which found the petitioners guilty of unfair labor practice against the respondent union and ordered the reinstatement of respondent Geronimo Q. Quadra to his former position with full backwages.

On July 22, 1965, the Prosecution Division of the Court of Industrial Relations filed an unfair labor practice case against the petitioners herein. The case entitled "The Association of Sweepstakes Staff Personnel and Supervisors (CUGCO) and Geronimo Q. Quadra, Complainants vs. The Philippine Charity Sweepstakes Office (PCSO), Ignacio Santos-Diaz, Vicente G. Martinez, Fernando C. Santico, Manuel A. Concordia and Miguel Canizares, respondents was docketed as Case No. 41312. The petitioners were charged with committing unfair labor practice acts as defined by Section 4(a) subsections (1), (4) and (6) in relation to Sections 13 and 14 of the Industrial Peace Act (Republic Act No. 875, as amended).

The alleged unfair labor practice acts committed by the petitioners were: (1) the refusal of the petitioners to bargain collectively with the respondent union, and (2) the unjustified dismissal of Geronimo Q. Quadra from his employment in the Philippine Charity Sweepstakes Office due to his active union activities.

In their joint answer, the petitioners denied the material allegations of the complaint and as special and affirmative defenses alleged that: 1) the complainants have not exhausted administrative remedies before filing the complaint; 2) complainant Quadra was dismissed from his employment in the respondent office by the proper authority and 3) the complaint states no cause of action.

After due trial, the court rendered a decision the dispositive portion of which reads:

> "WHEREFORE, judgment is hereby rendered adjudging the respondents Philippine Charity Sweepstakes Office, Ignacio Santos Diaz, Vicente G. Martinez, Fernando C. Santico, Manuel A. Concordia and Miguel Canizares guilty of unfair labor practice for having committed discrimination against complainant union and for having dismissed complainant Geronimo Quadra due to his union activities and by reason thereof, said respondents and/or their successors are hereby ordered to cease and desist from further committing these unfair labor practice acts.

> As an affirmative relief, the respondents PCSO and the individual respondents, their successors and assigns are hereby ordered to reinstate immediately complainant Geronimo Quadra to his former position with full back wages from the time of his dismissal up to his actual reinstatement with all the rights and privileges formerly appertaining thereto."

A motion for reconsideration filed by herein petitioners was denied by the lower court en banc.

In their brief, the petitioners (PCSO) assigned the following errors:

I

> RESPONDENT COURT OF INDUSTRIAL RELATIONS ERRED IN NOT HOLDING THAT RESPONDENT QUADRA HAS VIOLATED THE CIVIL SERVICE RULES AND REGULATIONS WHEN HE, AS MEMBER OF THE LEGAL STAFF OF PETITIONER PHILIPPINE CHARITY SWEEPSTAKES OFFICE, APPEARED AS COUNSEL FOR COMPLAINANT IN CIR CASE NO. 2701-ULP OF THE COURT OF INDUSTRIAL RELATIONS AGAINST THE PHILIPPINE CHARITY SWEEPSTAKES OFFICE.

II

> RESPONDENT COURT OF INDUSTRIAL RELATIONS ERRED IN HOLDING THAT THERE EXISTED NO SUFFICIENT JUSTIFICATION FOR THE DISMISSAL FOR RESPONDENT QUADRA BY PETITIONERS.

III

> RESPONDENT COURT OF INDUSTRIAL RELATIONS ERRED IN HOLDING THAT YOUR PETITIONERS COMMITTED DISCRIMINATORY ACTS AGAINST RESPONDENT UNION UNDER THE PROVISIONS OF SECTION 4(A), OF REPUBLIC ACT NO. 875, AS AMENDED.

The issues raised in the first and second assignments of errors are moot and academic.

Geronimo Q. Quadra was president of the Philippine Charity Sweepstakes Employees Association from the time he organized the union in April 10, 1956 up to May 26, 1965 when We ruled in Magalit vs. CIR, Quadra, et al. (14 SCRA 72) that Mr. Quadra was performing supervisory functions and must cease to be a member of the respondent union in that case.

As union president and authorized representative, Quadra led many strikes and filed various cases against PCSO. One of these cases, ULP Case No. 2701, filed with the Court of Industrial Relations is relevant to this petition. On April 12, 1961 respondent Quadra was summoned to appear before the CIR in ULP Case No. 2701 as authorized representative and principal witness of the complainant union. The CIR Prosecutor, Atty. Manuel B. Lorenzo, who was handling the case was absent during the hearing, so Quadra appeared as the representative of the union he handled. Another PCSO employee-lawyer, Francisco Cuevas, who incidentally was never charged or disciplined by the petitioners, also entered his appearance for the union.

For this single appearance, Quadra was charged before the Civil Service Commission with violating Section 12, Article XVIII of the Civil Service Rules and Regulations which prohibits civil service officers or employees from engaging directly in any private business, vocation, or profession or being connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the department head.

In a July 14, 1965 decision, the Commissioner of Civil Service sustained the charge of unauthorized practice of law and found Quadra guilty of "misconduct and/or conduct prejudicial to the best interest of the service." On the basis of this decision, the petitioners terminated the employment of Quadra.

As earlier stated, the union and Quadra caused the filing of the unfair labor practice case on July 22, 1965 with the Court of Industrial Relations.

Subsequent developments, however, have mooted the issues arising from the dismissal of respondent Quadra. Acting on a motion for reconsideration, the Commissioner of Civil Service on February 25, 1966 issued a resolution reconsidering his original decision and changing the penalty of dismissal to one of reprimand with a warning "that the commission of a similar offense in the future will be dealt with more drastically." On the same date, the Board of Directors of the Philippine Charity Sweepstakes Office passed Resolution No. 133 adopting the aforesaid Resolution, thereby reinstating respondent Geronimo Quadra to his former position as Chief Legal Officer "effective immediately."

Moreover, on May 30, 1966 the petitioners-Board of Directors, passed Resolution No. 385 promoting respondent Quadra from Chief Legal Officer to Supervising Corporate Attorney. The promotion was made retroactive to January 1, 1965 or around seven months before the filing of the unfair labor practice case now before Us in this petition for review. Nonetheless, respondent Quadra continued with this case, long after the petitioners mooted it by their acts, obviously, to seek judicial vindication. Mr. Quadra has since left the Philippine Charity Sweepstakes Office. As a matter of fact, he is now a Commissioner in the National Labor Relations Commission.

In their third assignment of error, the petitioners contend that under the circumstances of this case, they could not have been guilty of discrimination as provided under Section 4(A) (4) of Republic Act No. 875 as amended.

The CIR passed upon the unfair labor practice issue as follows:

x x x

> "The next question to be resolved is whether or not respondents refused to bargain collectively with the ASSPS (CUGCO). The record shows that on June 8, 1965, the PCSSU requested the PCSO to recognize it as the sole and official spokesman of the supervisors of the latter. On June 18, 1965, the ASSPS (CUGCO) likewise demanded from the PCSO recognition as the sole representative of all the supervisors including those ineligible

for membership with the rank and file unit. In both demands, the PCSO requested both labor unions to present their respective Constitution and By-Laws, list of membership and certificate of registration. Complainant union refused to present its Constitution and By-Laws and list of membership and because the PCSO reiterated its stand, complainant filed a notice of strike on July 12, 1965 based on refusal to bargain collectively and refusal to negotiate.

"The pertinent law provides that it shall be unfair labor practice for an employer 'to refuse to bargain collectively with the representatives of his employees subject to the provisions of sections thirteen and fourteen.' [See Sec. 4(a), subsection 6 of Republic Act No. 875]

"For an employer, therefore, to be guilty of the same, it must have refused to bargain collectively with the representative of his, employees. To be representative of the employees, the labor union should either be certified as such by the Court of Industrial Relations or recognized as such voluntarily by the employer and only then that said labor union has a basis in having a desire to negotiate an agreement of its proposals.

"On the evidence presented, it is clear that the PCSO did not recognize, either the PCSSU or the ASSPS, (CUGCO) as the representative of all the supervisors. The PCSSU was merely recognized by the PCSO as a duly organized association of supervisors in the PCSO but not as the representative of those employees. Both demands for recognition were acted upon by the PCSO and it is justified to make sure that the union it is going to recognize, outside of Court, is a legitimate labor organization and that it commands a majority membership in the bargaining unit. In fact, no formal collective bargaining agreement has been extended by the PCSO with any labor union over the employees affected. Under such circumstances, the PCSO can not be said to have refused to bargain collectively with the representative of its employees.

"However, the PCSO, under the facts obtaining, can be said to have discriminatedly acted against the complainant ASSPS

(CUGCO) because during the pendency of the question of recognition, it granted only the request of the President of the PCSSU to have a representative in the grievance and welfare committee when the complainant Union (ASSPS-CUGCO) asked also for the same; the PCSO likewise granted representation to the PCSSU in the Committee on Promotions; and granted also the No. 1 labor proposal of the PCSSU. In effect, therefore, the PCSO before recognizing any labor union as the representative of the employees concerned, extended concessions, privileges and benefits to one labor union to the EXCLUSION OF THE OTHER. While this may not amount to a refusal to bargain collectively, it certainly would constitute discrimination within the meaning of Section 4(a) of Republic Act No. 875, as amended. (pp. 47-49, rollo)

Section 4(a) (4) of Republic Act No. 875, as amended reads:

"SEC: 4. Unfair Labor Practices —

(a) It shall be unfair labor practice for an employer:

x x x

(4) To discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization."

The petitioners contend that the aforesaid provision refers only to "discrimination against an employee or group of employees in regard to hire or tenure of employment or any term or condition of employment in order to encourage or discourage membership in any labor organization." Thus, they argue that since under the facts found by the respondent court, no employees or group of employees were discriminated against in regard to hire or tenure of employment for the purpose of encouraging or discouraging membership in any labor organization, the respondent court erred in declaring them guilty of discrimination under Section 4(a) of Republic Act No. 875, as amended.

We find no reason to disturb the respondent court's finding that the petitioners committed acts of discrimination. Discriminatory acts under the applicable law are not limited to hiring or tenure but extend to terms and conditions of employment. The discrimination does not have to be against a specific employee or against employees in the general sense that the petitioners want the law to be construed. We ruled in Moncada Bijon Factory vs. CIR (4 SCRA 756), when We stated that an employer can discriminate in favor of a union, even if it were not company dominated, that discriminatory acts can be effected against a union itself. Since the PCSO extended privileges and concessions to the PCSSU while denying the same privileges and concessions to the respondent union at a time when neither union had been recognized as sole bargaining representative, the CIR did not err in finding discrimination within the purview of Section 4(a) (4) of Republic Act 875, as amended.

WHEREFORE, the petition is dismissed with no pronouncement on costs.

SO ORDERED.

Teehankee, *(Acting C.J.)*, Makasiar, Plana, Vasquez and Relova, *JJ.*, concur.
Herrera, *J.*, is on leave.