SUPREME COURT
EN BANC

THE PHILIPPINE MARINE RADIO OFFICERS' ASSOCIATION,
***Petitioner*,**

-versus-

G.R. Nos. L-10095 & L-10115
October 31, 1957

THE COURT OF INDUSTRIAL RELATIONS, COMPAÑIA MARITIMA, PHILIPPINE STEAM NAVIGATION CO., MADRIGAL SHIPPING CO., NORTH CAMARINES LUMBER SHIPPING CO., PAN ORIENTAL SHIPPING CO., HIJOS DE F. ESCAÑO, INC., VISAYAN TRANSPORTATION CO., ROYAL LINES, INC., CARLOS A. GOTHONG SHIPPING CO. and BISAYA LAND TRANSPORTATION CO.,
***Respondents*.**
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COMPAÑIA MARITIMA, PHILIPPINE STEAM NAVIGATION and MADRIGAL SHIPPING CO., INC.,
***Petitioners*,**

PHILIPPINE MARINE RADIO OFFICERS ASSOCIATION and COURT OF INDUSTRIAL RELATIONS, ET AL.,
Respondents.
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D E C I S I O N

LABRADOR, *J.*:

In the above-entitled cases petitioners seek the annulment and or revision of an order of the Court of Industrial Relations concurred in by Judges Lanting, Jimenez Yanson and Martinez, the main provisions of which: (1) direct the return of the strikers, members of the Philippine Marine Radio Operators Association and the different shipping companies parties to the action, (2) but refuse the grant of backpay to them during the period of the strike.

The facts that led to the promulgation of the order in question may be briefly stated as follows: On August 28, 1953, the Philippine Marine Radio Officers Association (PHILMAROA) presented a list of demand to the Association de Navieros, the Philippine Shipowners' Association and the Luzon Stevedoring Company, the most important of which are: (1) the standardization and increase of salaries; (2) sick and vacation leave; (3) hospitalization and sick leave; and (4) a closed shop agreement. On September 25, 1953, the Associacion de Navieros informed the Philmaroa that the matter of their petition was referred to the members of the Association, the most important of which were the Compañia Maritima and the Philippine Steam Navigation Company. On October 22, 1953, the Philippine Shipowners' Association, the most important members of which are the Madrigal Shipping Company, the Visayan Transportation Company and the Bisaya Land Transportation, informed the Philmaroa that it could not deal with the latter and requested that the demands be made on the member companies. On September 26, 1953, the Philmaroa also presented the demands with the Bisaya Land Transportation Company and the Royal Steamship Lines. As none of the companies

were willing to consider its demands the Philmaroa gave notice of its intention to strike to the different shipping companies and to the Chief, Conciliation Service Division, Department of Labor. This notice to strike was sent on October 17 and October 24. On October 31, 1953 the Chief of the Conciliation Service called the parties for conference. At this conference the Association de Navieros and the Philippine Shipowners' Association gave the information that they had no authority or power to bargain collectively and suggested that the members of the said association be notified, so the union sent notices to the different companies. After being notified, the respondent companies, on November 7 and November 13, answered, questioning the authority of the Philmaroa to act as representative of the radio operators and demanding that the list of the members employed who belong to the Philmaroa be furnished them. But the Philmaroa refused to do so for fear of reprisal against its members.

The respondent companies also averred that some of them had given salaries over and above that demanded in the standardization, some have given sick and vacation leave and hospitalization, etc.

At a conference held on November 13, 1953 before the Conciliation Service Division of the Department of Labor, it was agreed that the respondents be allowed six days of grace within which to act upon or answer the demands made by the Philmaroa. But without the period of six days having expired the Philmaroa declared a strike on November 16, against the Compañia Maritima, on November 19, against the Philippine Steam Navigation Company.

On February 22, 1954, the President of the Philippines certified the case to the Court of Industrial Relations in accordance with section 10 of Republic Act No. 875. The case was then heard by the Court of Industrial Relations with Hon. Jose S. Bautista, presiding. After trial he rendered a decision ordering the respondent companies to reinstate the radio operators on strike, with backpay to their former positions on the vessels under the terms and conditions on August 28, 1953. The judge also granted demand (c) or free hospitalization and sick leave of 15 days every year with pay. All the other demands were denied. Standardization was denied because the cost of operation of the vessels cannot be controlled and not all of the companies are of the same level and the work and cost of living vary among the

different vessels. Vacation leave with pay was denied because the court found that many of the respondents did not have the ability to pay. The closed shop agreement was denied because there was no need for it as the nature of the work of radio operators did not need to be the subject of bargaining. Against this decision all the parties appealed the court en banc. Judge V. Jimenez Yanson voted to allow the strikers to go back to their respective positions, but without backpay. He voted to affirm the other portions of the decision denying standardization, vacation leave and closed shop agreement, but granting sick leave, free hospitalization with pay. Judge Martinez concurred in this opinion of Judge Vicente Jimenez Yanson. Judge Lanting concurred also with this decision of Judge Jimenez Yanson, giving the grounds for his concurrence. All the parties to the action have appealed to Us by certiorari from the order of the court in banc. Their appeals shall be considered separately.

APPEAL OF THE PHILIPPINE MARINE RADIO OFFICERS' ASSOCIATION (G.R. No. L-10095)

The first error claimed to have been committed by the court a quo in its resolution is in finding that there was no allegation or issue of unfair labor practice before the court, and in concluding that the latter could not, therefore, grant backpay to the employees who were ordered to return back to their work. It is argued by the petitioner that the existence of unfair labor practice was an issue in the case because the Philippine Steam Navigation Company and the other steam companies, in their pleadings and allegations, claim that the strike was illegal because of acts of the union amounting to unfair labor practice, and that under such allegations and pleadings the court had the power and jurisdiction to find that it was the respondents who committed unfair labor practice, as a result of which the strike could not have been illegal. It is argued as a consequence that the finding of the trial judge that the respondents were guilty of unfair labor practice because they delayed passing upon the demands of petitioners union should be sustained by us.

We agree with the finding of the majority of the court below that there was no unreasonable delay by the respondents in the consideration of the union demands. The demands were quite many and varied, involving very fundamental questions that could affect the life of the

business of each of the respondents, like increased salaries, standardized salaries, vacation leave with pay, closed shop agreement. It is unreasonable to require the respondents, therefore, to answer the demands in the very short period of time that the case was before the Conciliation Service Division of the Department of Labor. Furthermore, it was agreed at the conference that respondent companies were to be granted six days after November 13, within which to present their answer to the list of demands; but the petitioner union began calling the strikes before the expiration of said period. It is possible under certain circumstances that delay in consideration of demands of a labor union may amount to a refusal to bargain collectively, within the meaning of Section 4, par. 6 of the Industrial Peace Act, but we find that under the circumstances of the case there was no unreasonable delay which would amount to a refusal to bargain within the meaning of said provision.

With this holding, it becomes unnecessary to consider the correctness of the resolution appealed from insofar as it declares that no employer may be declared guilty of unfair labor practice without allegation to that effect in the pleadings and opportunity on the part of the employer to deny the same, to contest the charge, and submit evidence in support of the denial.

It is also argued before Us that the respondent companies were guilty of unfair labor practice because while the strike was in progress, Case No. 161-ULP was instituted against the Compañia Maritima for having removed or dismissed employee Manuel C. Romero, whom the Court of Industrial Relations ordered returned to his former position. This contention is without merit. The case of Romero was never mentioned as a cause of the strike, and neither is it mentioned as a cause of finding said respondent company or any one of respondents guilty of unfair labor practice. As a matter of fact, the trial judge had not considered the incident of Romero as a cause of unfair labor practice against the Compañia Maritima; it was the supposed delaying tactics that were found by the trial judge to constitute the act of unfair labor practice. Furthermore, the decision of the Court of Industrial Relations in the case of Romero did not result in anything except in the reinstatement of Romero. No other matter was decided in that case, hence the petitioner union cannot claim it to be a cause

or reason for declaring respondent companies guilty of unfair labor practice in the case now at bar.

The second important error assigned in this appeal is the refusal of the majority of the court below to grant backpay. The alleged labor practice imputed to their respondent companies is again used as a ground for granting backpay to the members of the petitioner union, but as we have found above that there was no act on the part of respondent companies amounting to unfair labor practice, this ground for the demand must be rejected.

This brings us to a consideration of that part of the decision that has a relation to the right to backpay. The basic facts are stated in the opinion of the three judges who denied the backpay claim:

> "On February 25, 1954, this court issued an order setting the hearing of the case on March 1, 1954. At the hearing, Atty. Cipriano Cid, then counsel for the petitioner, was asked several times by the trial Court and by counsel of Compañia Maritima whether he wanted the strikers to be ordered back to work, and his reply was: 'We have not asked that yet. (p. 15-19 hearing on March 1, 1954). And when counsel for PSNCO directly asked him if he wanted the strikers to go back to work, his answer in effect was, if ordered by the Court." (p. 5, Annex F-1 to Petition.)

It is clear from the above that the petitioner union never demanded the privilege to have its members reinstated to their positions immediately, but that they left this matter of their return to the discretion of the court. The court, on the other hand, did not order the return of the strikers; it did so only in its decision after the hearing and termination of the case.

Under the circumstances as above indicated it is apparent that the strikers never expressed a desire or willingness to return back to work, leaving that to the court's discretion. The denial of backpay to the strikers is clearly justified, in accordance with previous decisions of this Court.

It must be taken into account that neither the pleadings, nor the evidence, nor the judgment disclose the existence of any act

amounting to discrimination or unfair labor practice. The strike was resorted to by members of the petitioner union as an economic weapon to compel the respondent companies to grant improvement in the pay of the members of the union and in the conditions of their employment.

As a matter of fact they expressly wanted closed shop, standardization and increase of salaries as well as vacation leave with pay. At the hearing of the case before the court a quo, counsel for the petitioner union, when asked if the strikers wanted to return back to work, did not say so, but instead expressly declared that the strike was adopted as a weapon to enforce their demands. The strike was by all means, therefore, a voluntary act on the part of the strikers, not one to which they were compelled by reason of any act of discrimination, or unfair labor practice, or refusal of the respondent companies to admit them back to work. The strike may have been legal because it was used as a weapon in the interest of labor; but it was not caused by any illegal or unfair act on the part of the employers, and the strikers should not be entitled to pay during the period they voluntarily absented themselves from work. What we stated in the case of J.P. Heilbrown Company vs. National Labor Union, (92 Phil., 575, 49 Off. Gaz., [2] 547) are exactly applicable:

> "The age-old rule governing the relation between labor and capital or management and employee is that of a 'fair day's wage for a fair day's labor.' If there is no work performed by the employee there can be no wage or pay, unless of course, the laborer was able, willing and ready to work but was illegally locked out, dismissed or suspended. It is hardly fair or just for an employee or laborer to fight or litigate against his employer on the employer's time."

No commission of any unfair labor practice is involved in the case. The grant of backpay is, therefore, to be governed by the general principle of "fair day's wage for a fair day's labor." If even in cases of unfair labor practices the court may be justified in denying backpay (See section 5 (c) of Industrial Peace Act), there is absolutely no reason for granting backpay if there has not been any unfair labor practice on the part of the respondent companies at all.

For the foregoing considerations the appeal should be denied.

APPEAL OF COMPAÑIA MARITIMA, ET AL. (G. R. NO. L-10115)

This appeal involves the interpretation of Section 10 of the Industrial Peace Act, which is as follows:

> "Labor Disputes in Industries indispensable to the National Interest. — When in the opinion of the President of the Philippines there exists a labor dispute in an industry indispensable to the national interest and when such labor dispute is certified by the President to the Court of Industrial Relations, said Court may cause to be issued a restraining order forbidding the employees to strike or the employer to lockout the employees, pending an investigation by the Court, and if no other solution to the dispute is found, the Court may issue an order fixing the terms and conditions of employment."

It is contended that under the above-quoted provision the Court of Industrial Relations, in a case certified to it by the President of the Philippines under the provisions of the above-quoted section, has no power to order the reinstatement of employees and to grant them backpay. It is argued that the Industrial Peace Act does not prohibit the replacement of strikers, and if this is so the employer has the right to make replacements during the strike, which replacements may not be nullified by a subsequent order of the Court of Industrial Relations for the return of the strikers.

We cannot subscribe to the above contention. We agree with counsel for the Philippine Marine Radio Officers' Association that upon certification by the President under Section 10 of Republic Act 875, the case comes under the operation of Commonwealth Act 103, which enforces compulsory arbitration in cases of labor disputes in industries indispensable to the national interest when the President certifies the case to the Court of Industrial Relations. 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 103, but with the same broad powers and jurisdiction granted by that Act. If the Court of Industrial Relations is

granted authority to find a solution in an industrial dispute and such solution consists in the ordering of employees to return back to work, it cannot be contended that the Court of Industrial Relations does not have the power or jurisdiction to carry that solution into effect. And of what use is its power of conciliation and arbitration if it does not have the power and jurisdiction to carry into effect the solution it has adopted. Lastly, if the said court has the power to fix the terms and conditions of employment, it certainly can order the return of the workers with or without backpay as a term or condition of the employment.

The appeal is, therefore, without merit.

FOR THE FOREGOING CONSIDERATIONS, the appeals in the aforesaid cases are hereby dismissed, with costs against the petitioner in G. R. No. L-10095, and the petitioners in G. R. No. L-10115.

Paras, *C.J.*, Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Concepcion, Reyes, Endencia and Felix, *JJ.*, concur.