

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**PHILIPPINE TELEGRAPH AND
TELEPHONE CORPORATION (PT&T),
JOSE LUIS SANTIAGO, EPITACIO R.
MARQUEZ, JOVENCIO V. TRINIDAD
and FRANCISCO MAGLASANG, JR.,
*Petitioners,***

-versus-

**G.R. No. 109281
December 7, 1995**

**NATIONAL LABOR RELATIONS
COMMISSION (NLRC), ASSOCIATED
LABOR UNION (ALU), OSIALITO
TIGLAO, RENATO MIRANDA, LYDIA
GABUTIN, PRISCILLA RUSTILA,
CECILIA TROCIO, ARNOLD DE LARA,
FELIX BRESENIO, HERMIE
MARGARITO GALVEZ, AMABLE
BAYAN, DAHLIA TANEDO, PABLITO
TANEDO, ALBERTO MACALISANG and
DULCE JUCOM,**

Respondents.

X-----X

RESOLUTION

FELICIANO, J.:

In this Petition for Certiorari, Prohibition and Mandamus, with prayer for issuance of a temporary restraining order and preliminary injunction, petitioners Philippine Telegraph and Telephone Corporation (“PT&T”), a business entity with a franchise to operate domestic telecommunication services in the Philippines, Jose Luis Santiago, Epitacio R. Marquez, Jovencio V. Trinidad and Francisco Maglasang, assail the Resolution^[1] dated 29 May 1992 and the Order^[2] dated 8 March 1993 of the National Labor Relations Commission (“NLRC”). The questioned Resolution and Order directed the reinstatement of the twelve (12) private respondents: Osialito Tiglao, Jr., Arnold de Lara, Alberto Macalisang, Felix Bresenio, Hermie Margarito Galvez, Lydia Gabutin, Dahlia Tanedo, Dulce Jucom, Cecilia Trocio, Priscilla Rustila, Pablito Tanedo, and Renato Miranda, without loss of seniority rights to their respective positions with backwages but limited to a period of three (3) years.

The controversy before us began when a run-off election was conducted on 15 November 1986 between private respondent Associated Labor Union (“ALU”) and Pambansang Samahang Anak-Pawis (“PASAP”) with the latter garnering the highest number of votes. ALU’s best showing among the branches of PT&T nationwide was in the Antonino Branch of PT&T. Principally responsible for ALU’s strong showing during the run-off elections in the Antonino Branch was ALU’s Vice-President, private respondent Osialito Tiglao, Jr.

Subsequent to the run-off elections, two (2) directives were issued by the management transferring Tiglao from the Antonino Branch Radio Room to the Pasig Nodal Station and later, to the Caloocan Nodal Station. ALU protested Tiglao’s transfer. Such protest remained unacted upon by the management. Hence, on 23 February 1987, ALU filed a notice of strike with the Bureau of Labor Relations (“BLR”) on the ground that PT&T had committed an unfair labor practice in dismissing its officers and members and/or in discriminating and coercing its members. The dispute was certified to the NLRC for compulsory arbitration as NLRC Certified Case No. 0475.

On 30 March 1987, private respondent Tiglao was dismissed by PT&T for refusing to comply with the two (2) transfer directives. He

thereafter filed a complaint for illegal dismissal against PT&T with the NLRC.

On 13 May 1987, the employees of PT&T and United Management Corporation (a sister corporation of PT&T and organized by ALU) staged a strike. For the next two days, ALU members who were PT&T employees staged further strikes at the PT&T offices in the cities of Manila, Davao, Legaspi and Cebu. As a consequence of these incidents, the other named respondents in this case, all officers and members of ALU-TUCP, were eventually separated from the service, allegedly for committing illegal acts during what PT&T considered was a series of illegal strikes. These other private respondents also filed complaints against petitioners for illegal dismissal with the NLRC.

Tiglaos case and those of his co-private respondents were eventually consolidated with NLRC Certified Case No. 0475.

Meanwhile, on 6 June 1987, petitioner PT&T filed a complaint for illegal strike against private respondents before the NLRC, Arbitration Branch Manila, docketed as Case No. 00-06-02046-87. On 22 June 1987, PT&T filed an Urgent Motion to Withdraw and/or Consolidate praying that the illegal strike case be withdrawn from the NLRC Arbitration Branch and instead forwarded to NLRC Commissioner Daniel Lucas for arbitration. Acting on PT&T's Motion to Withdraw and/or Consolidate, Labor Arbiter Pacita del Rosario issued on the same day an Order dismissing with prejudice PT&T's complaint for illegal dismissal.^[3]

On 29 May 1992, respondent NLRC issued the assailed Resolution. A motion for reconsideration thereof was denied by the NLRC in an Order dated 6 July 1992.

Petitioners, before this Court, claim that the respondent NLRC had acted with grave abuse of discretion amounting to lack or excess of jurisdiction (1) in refusing to consolidate the illegal strike case with the cases subject of this petition, and to conduct a hearing as prayed for by petitioners, thus rendering the assailed Resolution and Order null and void; (2) in finding that the dismissal of the respondent

employees was without just cause; and (3) in ordering reinstatement instead of payment of separation pay.

We consider that petitioners have failed to show grave abuse of discretion amounting to lack or excess of jurisdiction on the part of respondent NLRC when it issued the assailed Resolution and Order.

The records show that petitioner PT&T's illegal strike case had been dismissed with prejudice as of 22 June 1987. The allegation of petitioner PT&T that their Urgent Motion to Withdraw was "completely ignored" and that the matter "was brought to the attention of the respondent NLRC, but petitioners were again ignored" has, accordingly, no factual basis. To the contrary, their motion was swiftly acted upon by Labor Arbiter del Rosario on the same day. However, apparently overlooking or disregarding the fact that the dismissal of the illegal strike case was with prejudice, PT&T failed to take steps to counter and modify the Labor Arbiter's ruling. Thus, PT&T deprived itself of an effective opportunity to ventilate fully the alleged illegal nature of the May 1987 strikes and of the culpability of the private respondents on the occasion thereof.

Nevertheless, petitioners were given the opportunity to present evidence on the alleged illegal nature of the strike as a defense to respondents' case for illegal dismissal in NLRC Case No. 0475. As a matter of fact, the records show that their Consolidated Position Paper^[4] dated 29 July 1988 discussed at length why the strike staged on 23 May 1987 should be declared illegal. This pleading, together with other documentary evidence which the petitioner filed were duly considered thus setting at naught its claim of denial of due process.

On the allegation that the NLRC deliberately failed to conduct a hearing, we have previously held in several cases that the NLRC possesses the discretion, once the position papers of the parties have been filed, to grant or deny a request by a party to conduct further hearings to adduce evidence.^[5] This is specially true in cases where public interest demands a speedy resolution of labor disputes, e.g., in vital industries like telecommunications.

Petitioners further alleged that private respondents other than Tiglao were validly separated from the service due to their participation in

the “illegal series of strikes” staged on May 1987 and/or their commission of illegal acts therein.

The NLRC had found that petitioners had failed to show that private respondents had committed illegal acts during the May 1987 strikes which would have warranted termination of their employment. Mere participation in a lawful strike is not a sufficient ground for termination of the services of a union member. The Labor Code protects ordinary, rank-and-file union members who participated in a strike from losing their jobs provided that they did not commit illegal acts during the strike. The Labor Code does at the same time hold accountable union officers who knowingly participated in an illegal strike.^[6] In the case at bar, no proof was adduced by petitioners that the May 1987 strikes violated the provisions of Article 264 of the Labor Code which establish procedural criteria for determination of the legality of a strike; thus, there was no proof that private respondents who are union officers knowingly or in bad faith participated in an illegal strike.

With respect to private respondent Tiglao, petitioners submit that the management’s act of dismissing him was warranted by his continued refusal to obey its lawful and valid orders to report for work at the Pasig Nodal Station and later, at the Caloocan Nodal Station. This act is punishable by dismissal under PT&T’s rules and regulations and, petitioners continue, constitutes serious misconduct and gross negligence which are just causes for the dismissal of an employee.^[7]

We, however, see no basis for overturning the NLRC’s conclusion that respondent Tiglao was dismissed on account of his union activities. It is well-settled that factual findings of quasi-judicial agencies like respondent NLRC are generally accorded not only respect but at times even finality when such findings are supported by substantial evidence.^[8] In the case at bar, the NLRC found that the real basis for the transfer of respondent Tiglao from PT&T’s Antonino Branch was not an alleged vague and unspecified “exigency of the service” but rather the fact that in its Antonino Branch where Tiglao was originally assigned, ALU had scored heavily in the certification election. This finding is not without support in the evidence of record.

Finally, the NLRC did not gravely abuse its discretion in ordering the reinstatement of private respondents. The petitioners have not proven that the position of private respondents must be characterized as one of trust and confidence such that their reinstatement may well lead to strained relations between employer and employees. As the Court held in *Globe Mackay Cable and Radio Corp. vs. National Labor Relations Commission*:^[9]

“The intendment of the law in prescribing the twin remedies of reinstatement and payment of backwages is, in the former, to restore the dismissed employee to their status before he lost her job x x x and in the latter, to give her back the income lost during the period of unemployment.

x x x

If in the wisdom of the Court, there may be ground or grounds for non and application of the above-cited provision, this should be by way of exception, such as when reinstatement may be inadmissible due to the ensuing strained relations between the employer and the employee.

In such cases, it should be proved that the employee concerned occupies a position where he enjoys the trust and confidence of his employer; and that it is likely that if reinstated, an atmosphere of antipathy and antagonism may be generated as to adversely affect the efficiency and productivity of the employee concerned.

x x x

Obviously, the principle of ‘strained relations’ cannot be applied indiscriminately. Otherwise reinstatement can never be possible simply because some hostility is invariably engendered between the parties as a result of litigation. That is human nature.

Besides, no strained relations should arise from a valid and legal act of asserting one’s right; otherwise an employee who shall assert his right could be easily separated from the service, by merely paying his separation pay on the pretext that his

relationship with his employer had already become strained.”
(Emphasis supplied)

Petitioners have not shown adequate basis for insisting on payment of separation pay in lieu of reinstatement.

ACCORDINGLY, the Court Resolved to **DISMISS** the Petition for Certiorari for lack of merit. The Resolution dated 29 May 1992 and the Order dated 8 March 1993 of public respondent NLRC are hereby **AFFIRMED**. Costs against petitioners.

Romero, Melo, Vitug and Panganiban, JJ., concur.

[1] NLRC Resolution, p. 11; Rollo, p. 51.

[2] Order, p. 1; Rollo, p. 61.

[3] Labor Arbiter Order, pp. 1-2; Rollo, pp. 166-167.

[4] Consolidated Position Paper of Respondent, pp. 1-15; Rollo, pp. 78-92.

[5] Pacific Timber Export Corp., et al. vs. National Labor Relations Commission, et al., 224 SCRA 860 (1993); Manila Resource Development Corp. vs. National Labor Relations Commission, 213 SCRA 296 (1992); Yap vs. Inciong, 186 SCRA 664 (1990).

[6] Article 264 (a) par. 3, Labor Code.

[7] Article. 283, Labor Code.

[8] Sunset View Condominium Corporation vs. National Labor Relations Commission, 228 SCRA 466 (1993); San Miguel Corporation vs. Javate, Jr., 205 SCRA 469 (1992); Tiu vs. National Labor Relations Commission, 215 SCRA 540 (1992); Garcia vs. Manila Times, 224 SCRA 399 (1993); University of Sto. Tomas vs. National Labor Relations Commission, 190 SCRA 750 (1990); Five J. Taxi vs. National Labor Relations Commission, 212 SCRA 225 (1992); GRF Shipping Agency, Inc., vs. National Labor Relations Commission, et al., 190 SCRA 418 (1990).

[9] 206 SCRA 701 (1992). See also Anscor Transport vs. National Labor Relations Commission and Crisostomo, 190 SCRA 147 (1990); Sibal vs. Notre Dame of Greater Manila, 182 SCRA 538 (1990); Asiaworld Publishing House, Inc. vs. Ople, 152 SCRA 219, 227 (1987).