SUPREME COURT
THIRD DIVISION

PHILTRANCO SERVICE ENTERPRISES,
***Petitioner*,**

-versus-

G.R. No. 85343
June 28, 1989

BUREAU OF LABOR RELATIONS and KAPISANAN NG MGA KAWANI, ASSISTANT, MANGGAGAWA AT KONPIDENSIYAL SA PHILTRANCO,
***Respondents*.**
x----------x

D E C I S I O N

GUTIERREZ, JR., *J.*:

In this Petition for *Certiorari*, the petitioner assails the order of the Bureau of Labor Relations (BLR), dated September 5, 1988. The dispositive portion of the order reads:

> "WHEREFORE, premises considered, the Order of the Med-Arbiter dated 4 April 1988 is hereby set aside and vacated and a new one entered ordering the conduct of a certification election among regular rank-and-file professional, technical, administrative and confidential employees of respondent company, with the following choices:

"1. Kapisanan ng mga Kawani, Assistant Manggagawa at Konpidensyal sa Philtranco (KASAMA KO);

"2. No Union.

"Let, therefore the records of the case be remanded to the Office of origin for the immediate conduct of the election.

"SO ORDERED." (Rollo, p. 33)

The antecedent facts are as follows:

Petitioner Philtranco Service Enterprises, Inc. is a land transportation company engaged in the business of carrying passengers and freight. The company employees included field workers consisting of drivers, conductors, coach drivers, coach stewards and mechanics and office employees like clerks, cashiers, programmers, telephone operators, etc.

On February 15, 1988, the Kapisanan ng mga Kawani, Assistant, Manggagawa at Konpidensyal sa Philtranco (KASAMA KO), a registered labor organization filed a petition for certification election with the Department of Labor and Employment, alleging among others that:

x x x

"3. Petitioner desires to represent all professional, technical, administrative, and confidential employees/personnel of respondent at its establishments in Luzon, Visayas and Mindanao for purposes of collective bargaining;

"4. The aforementioned employees were always expressly excluded from participating in the certification election conducted among the rank and file employees (drivers, conductors, coach drivers, coach stewards, and mechanics) of respondent and are excluded from the bargaining unit covered by the CBA between respondent and its rank and file employees. In addition, there exist substantial

differences in the terms and conditions of employment between the above-mentioned employees, hence, the former are covered by another appropriate bargaining unit which is separate and distinct from that of the rank and file employees of respondent and; which has been recognized by the Bureau of Labor Relations and upheld by the Honorable Supreme Court. Attached hereto as Annex 'A' and Annex 'B' are copies of the decision of the BLR and the Supreme Court in support thereof;

x x x

"6. The petition is supported by the signatures of more than twenty percent (20%) of all covered employees as provided for by law and which shall be presented during the initial hearing;

x x x

"8. There has been no Consent Election or Certification Election held and conducted by this Honorable Office for the past three (3) years prior to the filing of this petition in the bargaining unit petitioner sought to represent, the last Certification Election having been held last November 27, 1984. Attached hereto as Annex "C" is a copy of the Order issued by this Honorable Office relative to the result of the last certification election." (Rollo, pp. 4-5).

On February 24, 1988, the National Mines and Allied Workers Union (NAMAWU-MIF) filed a motion for intervention alleging that it is the bargaining agent of the workers at Philtranco and as such it has a substantial interest in the outcome of the petition.

On February 26, 1988, Arbiter Paterno Adap called the parties to a hearing. Philtranco and NAMAWU were ordered to submit their respective position papers and KASAMA KO was given the opportunity to submit a reply.

On April 4, 1988, a resolution was rendered with the following dispositive portion:

> "WHEREFORE, in the light of the foregoing premises, this petition is, as it is hereby ordered DISMISSED. If there are still individual members of the herein petitioner eligible to join a labor organization, it is hereby directed that all should be included/incorporated in the existing bargaining unit.
>
> "Parties are further directed/enjoined to device a mechanism for the implementation of the matter herein treated." (Rollo, pp. 29-30)

KASAMA KO appealed to the Bureau of Labor Relations (BLR). On September 5, 1988 the BLR reversed the resolution of the Med-Arbiter. A motion for reconsideration was denied in an order dated October 10, 1988.

As prayed for by the petitioner, a temporary restraining order was issued by this Court on November 7, 1988 restraining the BLR from enforcing and/or carrying out the decision dated September 5, 1988 and the order dated October 10, 1988.

The Labor Code recognizes two (2) principal groups of employees, namely, the managerial and the rank and file groups. Thus, Art. 212 (k) of the Code provides:

x x x

> "(k) 'Managerial employee' is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay-off, recall, discharge, assign or discipline employees, or to effectively recommend such managerial actions. All employees not falling within this definition are considered rank and file employees for purposes of this Book."

In implementation of the aforequoted provision of the law, Section 11 of Rule II, Book V of the Omnibus Rules implementing the Labor Code did away with existing supervisors' unions classifying the members either as managerial or rank and file employees depending on the work they perform. If they discharge managerial functions,

supervisors are prohibited from forming or joining any labor organization. If they do not perform managerial work, they may join the rank and file union and if none exists, they may form one such rank and file organization. This rule was emphasized in the case of Bulletin Publishing Corp. vs. Sanchez, (144 SCRA 628 [1986]).

It, therefore, follows that the members of the KASAMA KO who are professional, technical, administrative and confidential personnel of PHILTRANCO performing managerial functions are not qualified to join, much less form a union. This rationalizes the exclusion of managers and confidential employees exercising managerial functions from the ambit of the collective bargaining unit. As correctly observed by Med-Arbiter Adap:

> "Managerial and confidential employees were expressly excluded within the operational ambit of the bargaining unit for the simple reason that under the law, managers are disqualified to be members of a labor organization.
>
> "On the other hand, confidential workers were not included because either they were performing managerial functions and/or their duties and responsibilities were considered or may be categorized as part and parcel of management as the primary reason for their exclusion in the bargaining unit. The other categorized employees were likewise not included because parties have agreed on the fact that the aforementioned group of workers are not qualified to join a labor organization at the time the agreement was executed and that they were classified as outside the parameter of the bargaining unit." (Rollo, pp. 28-29)

The respondents, on the other hand, aver that the members of the respondent union are rank and file employees qualified to form a union. In fact their status as rank and file employees was allegedly recognized by this Court in the case of Pantranco South Express, Inc. vs. NAMAWU, (G.R. No. 67475, July 30, 1984).

The reliance on the Pantranco South Express, Inc. case is misplaced. The petition filed by Pantranco South Express Inc. simply asked for a ruling that certain employees were performing managerial functions.

We denied the petition for lack of merit in a minute resolution. There was absolutely no discussion on the recognition of another separate rank and file union in addition to the existing bargaining unit.

There is no conflict. The employees of Philtranco have been appraised and their functions evaluated. Managers by any name may not join the rank and file union. On the other hand, those who are rank and file workers may join the existing bargaining unit instead of organizing another bargaining unit and compelling the employer to deal with it.

We are constrained to disallow the formation of another union. There is no dispute that there exists a labor union in the company, herein intervenor, the NAMAWU-MIF which is the collective bargaining agent of the rank and file employees in PHILTRANCO.

Article 2 of the Collective Bargaining Agreement between PHILTRANCO and NAMAWU-MIF under the sub-title Appropriate Bargaining Unit provides:

> "Section 1 — The appropriate bargaining unit covered by this agreement consists of all regular rank-and -file employees of the company. Managerial, confidential, casuals, temporary, probationary and contractual employees as well as trainees, apprentices, security personnel and foreman are excluded from the bargaining unit and therefore, not covered by this AGREEMENT. The job description outside the bargaining unit are enumerated in the list hereto attached as Annex '1' and made an integral part hereof." (Emphasis supplied; Rollo, p. 27)

We see no need for the formation of another union in PHILTRANCO. The qualified members of the KASAMA KO may join the NAMAWU-MIF if they want to be union members, and to be consistent with the one-union, one-company policy of the Department of Labor and Employment, and the laws it enforces. As held in the case of General Rubber and Footwear Corp. vs. Bureau of Labor Relations (155 SCRA 283 [1987]):

> "It has been the policy of the Bureau to encourage the formation of an employer unit 'unless circumstances otherwise require.'

> The proliferation of unions in an employer unit is discouraged as a matter of policy unless there are compelling reasons which would deny a certain class of employees the right to self-organization for purposes of collective bargaining. This case does not fall squarely within the exception." (Emphasis supplied).

There are no compelling reasons in this case such as a denial to the KASAMA KO group of the right to join the certified bargaining unit or substantial distinctions warranting the recognition of a separate group of rank and file workers. Precisely, NAMAWU-MIF intervened to make it clear it has no objections to qualified rank and file workers joining its union.

It is natural in almost all fairly sized companies to have groups of workers discharging different functions. No company could possibly have all employees performing exactly the same work. Variety of tasks is to be expected. It would not be in the interest of sound labor-management relations if each group of employees assigned to a specialized function or section would decide to break away from their fellow-workers and form their own separate bargaining unit. We cannot allow one unit for typists and clerks, one unit for accountants, another unit for messengers and drivers, and so on in needless profusion. Where shall the line be drawn? The questioned decision of the public respondent can only lead to confusion, discord and labor strife.

The respondents state that this case is an exception to the general rule considering that substantial differences exist between the office employees or professional, technical, administrative and confidential employees *vis-a-vis* the field workers or drivers, conductors and mechanics of the petitioner. Against this contention, we find that the "substantial differences" in the terms and conditions of employment between the private respondent's members and the rest of the company's rank and file employees are more imagined than real. We agree with the petitioner that the differences alleged are not substantial or significant enough to merit the formation of another union.

PHILTRANCO is a large bus company engaged in the business of carrying passengers and freight, servicing Luzon, Visayas and Mindanao. Certainly there is a commonality of interest among filing clerks, dispatchers, drivers, typists, and field men. They are all interested in the progress of their company and in each worker sharing in the fruits of their endeavors equitably and generously. Their functions mesh with one another. One group needs the other in the same way that the company needs them all. The drivers, mechanics and conductors are necessary for the company but technical, administrative and office personnel are also needed and equally important for the smooth operation of the business. There may be differences as to the nature of their individual assignments but the distinctions are not enough to warrant the formation of separate unions. The private respondent has not even shown that a separate bargaining unit would be beneficial to the employees concerned. Office employees also belong to the rank and file. There is an existing employer wide unit in the company represented by NAMAWU-MIF. And as earlier stated, the fact that NAMAWU-MIF moved to intervene in the petition for certification election filed by KASAMA KO negates the allegations that "substantial differences" exist between the employees concerned. We find a commonality of interest among them. There are no compelling reasons for the formation of another union.

We quote with favor Med-Arbiter Adap's rationale, to wit:

> "It is against the policy of the Department of Labor to dismember the already wide existing bargaining unit because of its well established goal towards a single employer wide unit which is more to the broader and greater benefit of the employees working force.
>
> "The philosophy is to avoid fragmentation of the bargaining unit so as to strengthen the employees bargaining power with the management. To do otherwise, would be contrary, inimical and repugnant to the objectives of a strong and dynamic unionism. Let there be a unified whole rather than a divisive one, let them speak as one in a clear resonant voice unmarred by dissension towards progressive unionism." (Rollo, p. 29)

WHEREFORE, the Decision of the Bureau of Labor Relations, dated September 5, 1988 and the Order dated October 10, 1988 are hereby SET ASIDE. The resolution of the Med-Arbiter dated April 4, 1988 is REINSTATED. The restraining order issued by the Court on November 7, 1988 is made permanent.

SO ORDERED.

Fernan, *C.J.*, *(Chairman)*, Feliciano, Bidin and Cortes, *JJ.*, concur.
