SUPREME COURT
SECOND DIVISION

PHILTREAD WORKERS UNION (PTWU), MAURICIO BARTOLO, CESAR DAVID, EMMANUEL AGUSTIN, PECSON BARANDA, NELSON BAGUIO, ROLANDO MATALOG, PEPITO DAMICOG, EDUARDO SANTOS, ISABELO GALOPE, REYNALDO MALEON, AL PEDRIQUE, BAYANI HERNANDEZ, ROBERT LORESCA, LEONARDO LACSINA,
***Petitioners*,**

-versus-

G.R. No. 117169
March 12, 1997

SECRETARY NIEVES R. CONFESOR, NATIONAL LABOR RELATIONS COMMISSION, GEN. RECAREDO SARMIENTO, PHILIPPINE NATIONAL POLICE, PHILTREAD TIRE & RUBBER CORPORATION, GERARD BRIMO, HARRY McMILLAN,
***Respondents*.**
x----------x

D E C I S I O N

TORRES, JR., *J.*:

Petitioners challenge in this Petition the order of the Secretary of Labor dated September 8, 1994, the dispositive portion of which reads:

> "WHEREFORE, PREMISES CONSIDERED, this Office hereby certifies the entire labor dispute at Philtread Tire and Rubber Corporation to the National Labor Relations Commission for compulsory arbitration.
>
> Accordingly, any strike or lockout, whether actual or intended, is hereby strictly enjoined.
>
> All striking workers, except those dismissed employees based on the 15 August 1994 decision of the Labor Arbiter and those who have been retrenched by the Company and have received separation pay, are hereby directed to return-to-work within twenty-four (24) hours upon receipt thereof.
>
> The issue involving the retrenched employees who refused to receive separation benefits shall be included in the certified case.
>
> The parties are further directed to cease and desist from committing any and all acts that might exacerbate the situation.
>
> SO ORDERED.[1]

The records reveal the following facts:

On May 27, 1994, petitioner Philtread Tire Workers Union (PTWU), filed a notice of strike, docketed as NCMB-NCR Case No. 05-281-94, on grounds of unfair labor practice, more specifically union busting and violation of CBA.[2] On the other hand, on May 30, 1994, private respondent Philtread Tire and Rubber Corporation filed a notice of lockout, docketed as NCMB-NCR Case No. 05-013-94.[3] It also filed a petition to declare illegal the work slowdowns staged by the petitioner Union. Both cases were then consolidated. Several conciliation meetings were conducted but the parties failed to settle their dispute.

Then on June 15, 1994, private respondent declared a company wide lockout which continued until August 22, 1994. There were about eighty union members who were consequently dismissed. This also brought about the filing of the union members of a notice to strike in self-defense in NCMB-NCR Case No. 05-281-94.[4]

On August 15, 1994, the National Labor Relations Commission declared the slowdowns illegal, to wit:

> "WHEREFORE, premises considered, the petition is hereby GRANTED. The slowdowns engaged in by respondents are declared illegal and by engaging in such illegal activities, respondents whose name appear in Annex "A" of the petition are deemed to have lost their employment with petitioner. However, this Office, as a measure of compassion to the working man, resolves not to order respondents to pay petitioner the damages the latter prays for. As for the costs and attorney's fees, since these were not substantiated by the petitioner, this Office likewise resolves not to award them to petitioner.
>
> SO ORDERED."[5]

On August 31, 1994, private respondent corporation requested the Secretary of Labor to assume jurisdiction over the labor dispute. Hence, on September 8, 1994, Secretary Confesor issued the assailed order. Petitioners filed a motion for reconsideration of the order but the same was denied on September 26, 1994 for lack of merit.

Petitioners now challenge the order of the public respondent, raising the following issues: (1) Whether or not Article 263 (g) of the Labor Code is unconstitutional; and (2) Whether or not public respondent acted with grave abuse of discretion in issuing the questioned orders.

Petitioners contend that Article 263 (g) of the Labor Code violates the workers' right to strike which is provided for by Section 3, Article XIII of the Constitution. The assailed order of the Secretary of Labor, which enjoins the strike, is an utter interference of the workers' right to self-organization, to manage their own affairs, activities and programs, and therefore is illegal. The order is likewise contrary to

Article 3 of the International Labor Organization Convention No. 87, which specifically prohibits public authorities from interfering in purely union matters, viz.:

> "Article 3.
>
> 1. Workers' and Employers' organizations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programs.
>
> 2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof."[6]

Petitioners also argue that the assailed order was issued with grave abuse of authority. A cursory reading of Article 263 (g) allegedly shows that the power of the Secretary of Labor to assume jurisdiction or to certify a dispute for compulsory arbitration is strictly restricted to cases involving industries that are indispensable to national interest. Petitioners posit that the instant labor dispute does not adversely affect the national interest. The tire industry has long ceased to be a government protected industry and, moreover, Philtread Tire and Rubber Corporation is not indispensable to the national interest. The strike in Philtread will not adversely affect the supply of tires in the market and the supply of imported tires is more than sufficient to meet the market requirements.

The petition is devoid of merit.

On the issue of the constitutionality of Article 263 (g) of the Labor Code, the same had already been resolved in Union of Filipino Employees vs. Nestle Philippines, Inc.,[7] to wit:

> "In the case at bar, no law has ever been passed by Congress expressly repealing Articles 263 and 264 of the Labor Code. Neither may the 1987 Constitution be considered to have impliedly repealed the said Articles considering that there is no showing that said articles are inconsistent with the said

> Constitution. Moreover, no court has ever declared that the said articles are inconsistent with the 1987 Constitution.
>
> On the contrary, the continued validity and operation of Articles 263 and 264 of the Labor Code has been recognized by no less than the Congress of the Philippines when the latter enacted into law R.A. 6715, otherwise known as Herrera law, Section 27 of which amended paragraphs (g) and (I) of Article 263 of the Labor Code.
>
> At any rate, it must be noted that Articles 263 (g) and 264 of the Labor Code have been enacted pursuant to the police power of the State, which has been defined as the power inherent in a government to enact laws, within constitutional limits, to promote the order, safety, health, morals and general welfare of society (People vs. Vera Reyes, 67 Phil. 190). The police power, together with the power of eminent domain and the power of taxation, is an inherent power of government and does not need to be expressly conferred by the Constitution. Thus, it is submitted that the argument of petitioners that Articles 263 (g) and 264 of the Labor Code do not have any constitutional foundation is legally inconsequential."

Article 263 (g) of the Labor Code does not violate the workers' constitutional right to strike. The section provides in part, viz.:

> "When in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration."

The foregoing article clearly does not interfere with the workers' right to strike but merely regulates it, when in the exercise of such right, national interests will be affected. The rights granted by the Constitution are not absolute. They are still subject to control and limitation to ensure that they are not exercised arbitrarily. The interests of both the employers and employees are intended to be protected and not one of them is given undue preference.

The Labor Code vests upon the Secretary of Labor the discretion to determine what industries are indispensable to national interest. Thus, upon the determination of the Secretary of Labor that such industry is indispensable to the national interest, it will assume jurisdiction over the labor dispute of said industry. The assumption of jurisdiction is in the nature of police power measure. This is done for the promotion of the common good considering that a prolonged strike or lockout can be inimical to the national economy. The Secretary of Labor acts to maintain industrial peace. Thus, his certification for compulsory arbitration is not intended to impede the workers' right to strike but to obtain a speedy settlement of the dispute. This is well-articulated in International Pharmaceuticals, Inc. vs. Secretary of Labor, in this wise:

> "Plainly, Article 263 (g) of the Labor Code was meant to make both the Secretary (or the various regional directors) and the labor arbiters share jurisdiction, subject to certain conditions. Otherwise, the Secretary would not be able to effectively and efficiently dispose of the primary dispute. To hold the contrary may even lead to the absurd and undesirable result wherein the Secretary and the labor arbiter concerned may have diametrically opposed rulings. As we have said, "(i)t is fundamental that a statute is to be read in a manner that would breathe life into it, rather than defeat it."[8]

On the second issue raised by the petitioners, We find that the Secretary of Labor did not act with grave abuse of discretion in issuing the certification for compulsory arbitration. It had been determined by the Labor Arbiter in NLRC-NCR Case No. 00-05-04156-94 that the work slowdowns conducted by the petitioner amounted to illegal strikes. It was shown that every time the respondent company failed to accede to the petitioner's demands, production always declined. This resulted to the significant drops in the figures of tires made, cured, and warehoused. However, when the demand of the petitioner union for the restoration of overtime work was allowed, production improved. The work slowdowns, which were in effect, strikes on installment basis, were apparently a pattern of manipulating production depending on whether the petitioner union's demands were met. These strikes, however, had greatly

affected the respondent company that on November 11, 1994, it had indefinitely ceased operations because of tremendous financial losses.

We do not agree with the petitioners that the respondent company is not indispensable to national interest considering that the tire industry has already been liberalized. Philtread supplies 22% of the tire products in the country. Moreover, it employs about 700 people. As observed by the Secretary of Labor, viz.:

> "The Company is one of the tire manufacturers in the country employing more or less 700 workers. Any work disruption thereat, as a result of a labor dispute will certainly prejudice the employment and livelihood of its workers and their dependents. Furthermore, the labor dispute may lead to the possible closure of the Company and loss of employment to hundreds of its workers. This will definitely aggravate the already worsening unemployment situation in the country and discourage foreign and domestic investors from further investing in the country. There is no doubt, therefore, that the labor dispute in the Country is imbued with national interest.
>
> At this point in time when all government efforts are geared towards economic recovery and development by encouraging both foreign and domestic investments to generate employment, we cannot afford to derail the same as a result of a labor dispute considering that there are alternative dispute resolution machineries available to address labor problems of this nature."[9]

The intervention of the Secretary of Labor was therefore necessary to settle the labor dispute which had lingered and which had affected both respondent company and petitioner union. Had it not been so, the deadlock will remain and the situation will remain uncertain. Thus, it cannot be deemed that the Secretary of Labor had acted with grave abuse of discretion in issuing the assailed order as she had a well-founded basis in issuing the assailed order. It is significant at this point to point out that grave abuse of discretion implies capricious and whimsical exercise of judgment. Thus, an act may be considered as committed in grave abuse of discretion when the same was performed in a capricious or whimsical exercise of judgment

which is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility.[10]

Considering the foregoing premises, we find no merit in the instant petition.

ACCORDINGLY, the assailed order of the Secretary of Labor dated September 8, 1992 is hereby **AFFIRMED**.

SO ORDERED.

Regalado, Romero, Puno and Mendoza, *JJ.*, concur.

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[1] Annex "A", Rollo, pp. 34-36.
[2] Annex "C", Rollo, p. 43.
[3] Annex "E", Rollo, p. 45.
[4] Annex "H", Rollo, pp. 54-56.
[5] Decision, Rollo, pp. 137-138.
[6] Petition, Rollo, p. 15.
[7] 192 SCRA 396.
[8] 205 SCRA 59.
[9] Order, Rollo, p. 35.
[10] Litton Mills, Inc. vs. Galleon Trader, Inc., 163 SCRA 489.