SUPREME COURT
SECOND DIVISION

SPECIAL EVENTS & CENTRAL SHIPPING OFFICE WORKERS UNION,
***Petitioner*,**

-versus-

G.R. No. L-51002
May 30, 1983

SAN MIGUEL CORPORATION, J.B. PREYSLER, NATIONAL LABOR RELATIONS COMMISSION, HON. AMADO G. INCIONG, and HON. BLAS OPLE,
***Respondents*.**
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D E C I S I O N

GUERRERO, *J.*:

The sole issue presented in this petition involving five separate cases filed by the Special Events and Central Shipping Office Workers Union for alleged unfair labor practice is weather or not, in adjudicating them, respondent public officials and the National Labor Relations Commission committed grave abuse of discretion in making findings of fact not supported by the evidence.

After an assiduous study of the voluminous pleading in this case, We resolve the question in the negative.

The Special Events and Central Shipping Office of the San Miguel Corporation was organized in June, 1995 "to promote the products of the company by providing services such as bars, coolers and bartenders on special occasions like parties, conventions and similar gatherings."[1]

The individual complainants were formerly regular seasonal workers of the said Special Events and Central Shipping Office. Along with their co-workers, they organized themselves into a union on July 15, 1966 and elected the first set of officers.

The union was registered with the Department of Labor on August 9, 1966 and was issued Registration No. 5036-IP (Exhibit "I"). But as early as July 23, 1966, respondent company was informed of the formation of the union as a labor organization by the officers elected thereto. Together with the notice given to the company of the union's formation, a set of bargaining demands were presented to the company by the union's counsel. In view thereof, a conference was held between the union show proof of its majority status and suggested that the appropriate certification proceeding be presented to ascertain the union's majority among the employees in the Special Events and Central Shipping Department. Pursuant to management's suggestion, the union was certified, negotiation conferences were carried out between the certified, negotiation conferences were carried out between the union and the company and as a result of the negotiations, a collective bargaining agreement was concluded and executed between the union and the company.

With the formation of the union, the following five cases were filed one after the other:

(1) NLRC Case No. 4611-ULP.

The pleadings filed in this first ULP case is summarized in the Resolution of NLRC En Banc as follows:

> "The present case originated in a complaint for unfair labor practice lodged before the defunct Court of Industrial Relations by the above named labor organization and the thirteen (13) individual complainants, alleging that respondent San Miguel Corporation, with its officers named as individual respondents, interfered with the right of employees to self-organization and/or discriminated against union members in regard to hire and tenure of employment in order to discourage membership in the complainant union, by (1) reducing working days of union members and depriving them of their privilege to work overtime; (2) effecting demotions of union members and transferring them to harder jobs; (3) subjecting them to rigid physical and medical examination; (4) dismissing the thirteen (13) individual complainants for no reason except their union membership and activities; and (5) refusing to recognize the union and bargain with it.
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> "In their answer, the respondents denied all the material allegations of the complaint, specifically raising the defenses that the individual complainants were dismissed on account of their involvement in irregularities; that the complainants had no regular work days and worked only whenever the need for them arose; that the medical examinations required of them were the same as those undergone by other employees of the company and that it was agreed to defer negotiations until the resolution of the petition for certification proceedings."[2]

Upon the abolition of the Court of Industrial Relations, the case was transferred to the National Labor Relations Commission and after hearing the Labor Arbiter rendered a decision dated February 16, 1976 finding sufficient evidence to justify the dismissal of complainants Arturo Figueroa, Pedro Nieto, Julio Talavera, Reynaldo Barron, Glicerio Nolasco and Ruperto Olaguera but did not sustain the dismissal of Godofredo Jurado, Domingo dela Cruz, Timoteo Sanchez, Antonio de Leon, Abonadab Razon and Alarico Villanueva.

Upon appeal by respondents, the NLRC En Banc found that the equitable allocation of work was well grounded; that the motivation behind it was to discourage union membership cannot be inferred simply because the union was being formed at the time; that in the light of the confirmed practice of recording unworked time as paid time, management was fully justified in adopting work procedures that would curtail such malpractice; that it is a standard practice in many companies to require casual employees to accomplish application forms and undergo physical examination before they are integrated in the regular force. Anent the main issue revolving around the dismissal of the complainants, the NLRC found that the existence of irregularities in the matter of refunds for empty bottles was established beyond doubt; that all the thirteen complainants participated in the commission of the anomaly and that they should have all been ordered dismissed without back wages.

Charging abuse of discretion by respondent NLRC, complainants appealed the resolution to the Office of the Minister of Labor who upheld the resolution appealed from. Hence, this petition.

Petitioners claim that respondent company introduced Exhibits "6" though "28" to justify their dismissals. But while these exhibits pointed out some of the complainants as having something to do with the so-called "anomalies", the others were merely charged by implication and not on actual fact as there were no witnesses presented. Insofar as the "work distribution" and "malpractice in overtime" were concerned, the petitioners claim that public respondents used, not FACTS but innuendoes, allusions and illogical reasoning.

(2) NLRC Case No. 5191-ULP:

This is a complaint dated October 4, 1968 filed against respondent company for dismissing 15 members of the complainant union. In its answer dated October 31, 1968, the respondents raised the defense that Juan Esban, Rizal Cruz and Francisco Querol were merely probationary workers who were

separated for valid grounds on January 31, 1967, April 30, 1967 and March 18, 1967, respectively, after investigation and after expiration of their probationary periods; that Antonio Mesina, Alfredo Cani, Romeo Cruz, Antonio Mendoza and Narciso Alberto were casual workers who were separated after due investigation for lawful grounds in the later part of 1965, Sept. 1966, Sept. 1966, October 4, 1966 and February 12, 1967, respectively; that complainants Romeo Bardiano, Numeriano Robles, Pablo David, Augusto Paje and Agustin Maraguinot were seasonal workers who were separated on different dates in September and October, 1966 when the result of their physical examination indicated that they were suffering from disabling illness but they were all readmitted after they regained physical capacity to resume work and had in fact become regular employees except Numeriano Robles; that Rolando de Leon and Rolando Verain were regular casuals dismissed for cause on May 3, 1967 and March 30, 1966, respectively, after due investigation.[3]

The Labor Arbiter, in a decision dated August 22, 1977 found that respondent company committed Unfair Labor Practice and ordered it to pay a separation pay to ten complainants from dates of employment up to February 28, 1973.

Said decision of the Labor Arbiter was, however, reversed by respondent NLRC which held that respondent company was not guilty of unfair labor practice acts for want of the required quantum of proof to support such finding. Upon appeal to the Minister of Labor, it was held that there is no sufficient justification, much less reversible error to warrant the modification or reversal of the en banc Resolution of the NLRC.

In the instant petition, petitioners insists that respondent NLRC committed misrepresentation of facts such as: (1) finding that Rolando Verain was dismissed on March 30, 1966 when the complaint states that he was dismissed on May, 1967 and the answer of respondent company makes no mention of the name of Rolando Verain; and (2) finding that complainants could not have been discriminated against with regards to their tenure of employment because upon proof that they were physically

capacitated to resume work, they were readily reinstated when these "proofs" that they regained their health do not exist in the records of the case.

(3) NLRC Case No. 5210-ULP:

In this case, the complaint for unfair labor practice was initially instituted before the defunct CIR on November 19, 1968 by twenty-seven regular seasonal workers of respondent San Miguel Corporation whose conversion as regular daily paid workers did not materialize. On September 6, 1968, a Memorandum was issued by respondent thru Virgilio David, announcing the existence of 46 vacancies to the positions of regular daily paid workers and at the same time granting to the regular seasonal workers the priority in the filing of the vacant positions upon application until September 15, 1968. Twenty unionists who applied within the time limit were made permanent, each signing their resignations as regular seasonal workers and accepting gratuity pay. Thereafter, more unionists applied. Among them, 27 were chosen for possible conversion on the basis of seniority and to facilitate their conversion, they submitted check-off authorizations as regular daily paid workers. On October 8, 1968, the union filed a notice of strike with the Department of Labor for unilateral rescission of the CBA, harassment, interference with union activities and featherbedding. On October 10, 1968, the respondents issued simultaneous memoranda where the complainants herein were made to work everyday and reducing the number of working days of those rejected for conversion to three (3) days a week. On November 19, 1968, the union instead chose to file the instant complaint against the respondents rather than go to strike and on December 6, 1968, the union dues of the 27 complainants were resumed for deduction, thereby implying that the conversion did not push through.

The decision of the NLRC en banc recites the finding of the Labor Arbiter in this wise:

> "We read from the decision appealed from that the respondents were found guilty of unfair labor practice on

> two counts: Firstly, for converting 20 regulars seasonal (applicants before the expiration of the deadline) into regular daily paid workers without the knowledge, consent and approval of the union and without following the seniority rule; and secondly, for reverting as regular seasonals the 26 (27) chosen for conversion among the later applicants (after the deadline) although their conversion was a fait accompli."[4]

However, NLRC en banc reversed the decision appealed from the respondent Minister of Labor, through his Deputy rendered an Order dated December 19, 1978, merely reiterating the NLRC's decision.

The objections of petitioner to the aforesaid decision of the NLRC refer to the "distorted" findings (1) that the conversion of the 26 (27) did not materialize because they demanded that it be on "all or nothing basis"; (2) that the matter of conversion was of vital importance for the workers concerned to decide personally; (3) that the complainants' submission of check-off authorizations for union dues as regular daily paid workers and the discontinuance of the union dues as regular seasonals did not ipso facto make their conversion a foregone conclusion; and (4) that the respondents' promise to make the rejected regular seasonals as regular daily paid workers was turned down although nowhere in the entire records of the case can public respondents show this statement.

(4) NLRC Case No. 5408-ULP:

This case stemmed from the same Memorandum dated September 6, 1968 of respondent Virgilio T. David announcing the existence of 46 vacancies to the positions of regular daily paid workers. In view of the reduction of the working days of those not chosen for conversion to only three days a week, the 17 complainants herein seek as affirmative relief back wages and the declaration of the respondents as guilty of unfair labor practice claiming that there is no provision in the Collective Bargaining Agreement that would give the company the

prerogative to reduce working days. The said reduction in fact allegedly violated a CBA provision which reads as follows:

> "**ARTICLE IV - HOURS OF WORK**
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> Because of the nature of the works in the COMPANY's Special Events and Central Shipping Office, 'the parties hereto recognize the difficulty, if not the impossibility of establishing fixed working hours for the regular seasonal workers employed in said office, or publishing their work schedules in advance. Consequently, the present practice in respect to the assignment of work of the workers within the bargaining unit shall continue as heretofore provided, of course, the provisions of this agreement and of applicable laws are complied with."

After trial on the merits, the Labor Arbiter found that the complaint against respondent company was substantiated by evidence on the record. Upon appeal to the NLRC en banc, the decision was, however, reversed in a resolution dated March 28, 1978 where it was held that the reduction of working days of the individual complainants is not violative of Article IV of the disputants' collective agreement because the "practice" adverted to therein refers not to the number of working days per week but to the "assignment of work" in relation to "working hours" and "work schedules."

Thus, in the present petition, complainants contend that as to whether or not the reduction of working days is violative of Article IV of the Bargaining Agreement, the decisive rule is that:

A. "If the stipulation of any contract should admit of several meanings, it should be understood that as bearing that import which is most adequate to render it effectual." (Art. 1372, NCC).

B. "The interpretation of obscure records or stipulations in a contract shall not favor the party who caused the obscurity." (Art. 1377, NCC).

It was also contended that a collective bargaining agreement is entered into by a union with the sole purpose of improving the working terms and conditions of employment and then concluded that it is inconceivable that Par. IV of the Agreement could have stipulated that the working days could be reduced.

(5) NLRC Case No. LR 4412:

The case at bar was initiated by complainants as a result of the closure of the Special Events Section. The complainants charged "That on or about the month of August 1972, the herein respondents reduced the working days of the herein complainants from six (6) days to two (2) or three (3) days a week"; and "that the herein individual complainants were dismissed from their employment and not merely transferred to another position as was done with others due to their militant union activities."

The Labor Arbiter found respondents guilty of unfair labor practice (not on the specified unfair labor practice acts in the complain) but firstly; in implementing the discharge of the complainants without the required clearance under P.D. 21; secondly, in closing the Special Events Section without just cause; and thirdly, in implementing the closure in violation of the then existing collective bargaining agreement.

On appeal, the NLRC modified the decision by holding that the respondents had the right to discontinue the Special Events Department as an exercise of management prerogative. However, since the closure was not a complete cessation of business, the employees affected thereby are entitled to separation pay in conformance with R.A. 1052, the then applicable law; and that the abrogation of the collective bargaining agreement was not deliberate but was merely one of the inevitable consequences of the closure. This resolution was affirmed by the Deputy Minister of Labor.

The principle is well-established that findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally

> accorded not only respect but even finality.[5] Judicial review by this Court on labor cases do not go so far as to evaluate the sufficiency of the evidence upon which the Deputy Minister and the Regional Director based their determinations but are limited to issues of jurisdiction or grave abuse of discretion.[6]

In NLRC Case No. 4611, We find that the dismissal of the complainants is amply warranted by their signed statements in the course of investigations conducted to pin-point the culprits in the empties anomalies, aside from other relevant proof. There may have been no witnesses presented but duly recognized is the authority of the Ministry of Labor and Employment to rely heavily on affidavits and counter-affidavits for its determinations. That some were merely implicated and were unaware of what was going on cannot be believed considering that all the complainants were with the delivery crews involved and they had been in the service long enough to distinguish what is regular from irregular. The motivation behind their discharge was thus duly established to be breach of trust in view of their participation in the said anomalies relating to refunds for empty bottles. It is an established principle that an employer cannot be compelled to continue in employment an employee guilty of acts inimical to the interest of the employer and justifying loss of confidence in him.[7]

Anent the claim that public respondents used, not facts, but innuendoes, allusions and illogical reasoning insofar as the "work distribution" and "malpractices in overtime were concerned," the NLRC found that in January 1966, long before the formal notification on July 22, 1966 of the respondent Company about the formation of the union, there was a change of management of the Special Events and Central Shipping Department from Florencio Goyena to Rafael Alvarez, precisely because (1) there was an uneven distribution of work that while some workers were working 18 to 22 hours everyday during the week, others were virtually denied work; and (2) there was an abuse of overtime assignments as even while the workers were playing chess, they were reported as working and that workers did not punch out until after they had taken a bath and dressed up. Unfortunately, when Alvarez took over the management, a strike was declared against respondent company. Alvarez was forced by

circumstances to postpone the implementation of his instructions and plans until after the strike. These facts were not controverted.

Thus, if the reduction of working days and the privilege to work overtime were not implemented until after respondent company had knowledge of the formation of the union, it was sufficiently explained. Secondly, the NLRC correctly reasoned out that the reduction of working days per week or working hours per day suffered by few members of the union cannot be regarded as intended to bust the union when those who were benefited thereby in the form of augmented work allocation were also members of the union and besides, there was no showing that those who suffered reduction of work were the more active members. Thirdly, the NLRC's observation that medical examination is a standard practice in many companies before casual employees are integrated in the regular form is also correct. There is, therefore, a failure on the part of the petitioners in NLRC Case No. 4611 to present substantial evidence linking the dismissal of the employees to their union's activities.

In NLRC Case No. 5191-ULP, the answer of San Miguel Corporation specifically states that Rolando Verain had been dismissed for cause after due investigation on March 30, 1966.[8] For adopting said date of dismissal of Rolando Verain instead of the date alleged by petitioners in their complaint, respondent NLRC may not be charged of misrepresentation of facts. Non-submission of proofs that the respondents who were reinstated regained their health may not also be considered "misrepresentation of facts" nor "abuse of discretion". There is absolutely no necessity of proffer of such kind of evidence for the simple reason that "the five individual complainants who were separated for reason of physical incapacity but readmitted after a showing of physical fitness to resume work, were dropped as complainants by agreement of the parties."[9]

No abuse of discretion may be also imputed to respondent NLRC's finding in Case No. 5210-ULP that "the conversion of the 26 (27) did not materialize because they demanded that it be on "all or nothing basis." That such is petitioners' demand is implied in their queries about the effects of conversion not only on those converted but also on those not converted. Their concern for those not converted into

regular daily paid employees is clearly manifested in the following excerpt from their "Opposition to Appeal" before the NLRC:

> "And precisely what the complainants feared, happened! The attention of the Honorable Commission is called to October 10, 1968. Barely a day after the twenty-seven (27) complainants were accepted for conversion into regular daily paid employees, the respondents reduced the working days of those employee-members who were rejected for conversion to three (3) days per week while those of the newly converted workers were increased to 'everyday' work."[10]

Nevertheless, such finding is not the sole and basic reason why the conversion of the 27 did not materialize. The NLRC decision in 5210-ULP specifically stated: "In fact, they refused to sign the papers therefor and, unlike the 20 others who applied earlier, they were not paid gratuity pay."[11] Indeed, it is their refusal to comply with the reasonable conditions for conversion as required by the company, for no apparent and valid reason other than their fear and belief that they were being terminated by the company, which proved to be the hindrance to their conversion. Despite the assurance given to them by the assistant head of the personnel department that their signing the documents indicating the termination of their status as regular seasonal workers and their acceptance of the checks are necessary and if done by them would mean automatic conversion, they still refused.

In resolving the question of whether the company committed an act of discrimination against the 27 complainants whose conversion did not materialize, the fact that their applications were filed after the scheduled deadline of submission is vital and significant. Their situation is unlike that of the first 20 workers who were converted to regular daily paid workers because it is an admitted fact that these 20 workers filed their applications for conversion within the deadline of September 15, 1968 and agreed to comply with the conditions for conversion. There is thus, no basis to the claim that the said 20 regular seasonal workers who were converted were hand-picked by the company because they were less active union members.

Respondent company's omission to check-off union dues of individual complainants as regular seasonal workers for the months of October and November, 1968, although coupled with complainants' submission of check-off authorization for union dues as regular daily paid workers, did not make the conversion of complainants into regular daily paid workers a fait accompli. In the absence of the operative act of conversion which is compliance with the conditions imposed by respondent company namely: the signing of resignation papers and acceptance of gratuity pay, the omission whether deliberately done or through sheer inadvertence, did not mean anything. Clearly, respondent company cannot be charged of unfair labor practice against the 27 chosen for possible conversion among the later applicants since the conversion did not materialize in the first place.

In NLRC Case No. 5408-ULP, there may be no provision in the Collective Bargaining Agreement that would give the company the prerogative to reduce working days but neither is there any prohibition. Article IV of the Collective Agreement between the parties in this case which provides that "the present practice in respect to assignment of work of the workers within the bargaining unit shall continue as heretofore" may not be relied upon for the reason that it is vague. The practice adverted to refers to assignment of work in relation to working hours and work schedules. Moreover, the individual complainants herein are called regular seasonal workers because the work or service performed is seasonal in nature as it is not known when orders for special events services would be placed, although the Christmas holidays and week-ends were expectedly more intensive. For this reason, the number of working days of the individual complainants was on a staggered basis and was reduced or increased dependent on the volume of work. That such is the nature of the work in the Special Events and Central Shipping Office is recognized in the very provision cited by complainants in support of its adverse contention. Thus, it is stated in Article IV of the Collective Agreement "that the parties hereto recognize the difficulty, if not the impossibility, of establishing fixed working hours for the regular seasonal workers employed in said Office, or publishing their work schedule in advance." Respondent company may not, therefore, be said to have arbitrarily reduced the working hours in violation of the collective bargaining agreement.

Finally, petitioner's claims in NLRC Case No. 4412-ULP that (a) the dismissal was effected without clearance; (b) closure of the department was without just cause; (c) the company violated the collective bargaining agreement — were clearly and amply answered by the NLRC en banc.

The records disclose that prior to the closure of the Special Events Department and the termination of its personnel on February 28, 1973, the respondents filed the appropriate application for clearance, on February 9, 1973, which was well within the ten (10) working days required for filing the same prior to the intended date of termination as provided under Article I, Section 5 of Implementing Instructions No. 1, issued pursuant to P.D. 21. Although no clearance was issued as of the date of the implementation of the closure, respondent company may not be charged with unfair labor practice act because "it was not the intention of the Decree or the Rules to have an employer wait indefinitely for the issuance of clearance before it could implement the intended termination especially when, as in this case, the cause of termination was clearly established."[12]

A reading of the provisions of Presidential Decree No. 21 shows that the only duty imposed upon employers in the implementation of said decree is to file application for clearance at least ten (10) working days prior to the intended date of termination of employment.

Thus, in MDII Supervisors and Confidential Employees Association (FEW) vs. Presidential Assistant on Legal Affairs, 79 SCRA 41, this Court held that lack of clearance issued by Secretary of Labor on lay-off of employees is not indispensable where facts show that employer filed its application 16 days before the intended lay-off and because of union opposition, the matter was brought to the NLRC which later issued the clearance sought. Mere filing of application for clearance without the corresponding action on the said application may, therefore, justify termination of employment depending upon the circumstances of the case. In another case, Sandoval Shipyards, Inc. vs. Hon. Jacobo C. Clave, 94 SCRA 472, this Court also held that dismissal of an employee is justified where employee abandoned his work and his employer filed the required application for clearance for his dismissal and the dismissal of other co-employees.

In this case, the closure of the Special Events section which resulted in the termination of employment of individual petitioners provided the justifying circumstance for the failure to await the action on the application for clearance.

The determination of the usefulness of a section being a company prerogative, the closure may not be questioned specially in this case where it is impelled by economic reasons due to the continuous losses sustained in its operation coupled with the lack of demand for services of such section. In Insular Lumber Co. (Phil.), Inc. vs. CA, 80 SCRA 28, it was held that just cause for terminating employment within a definite period is closing or cessation of operation of establishment or enterprise. While it is true that only one section of the company is affected, the section involved in this case is one where continuous work could not even be guaranteed and it was held in Pan Am World Airways, Inc. vs. CIR, et al., 17 SCRA 813, that lack of work as a cause of lay-off is justified.

Anent the charge that respondents violated the existing CBA in unilaterally abrogating the same in order to frustrate its renegotiation, We share the view of the NLRC that this legal proscription contemplates deliberate intention to do away with the agreement, which is not the case here as the abrogation of the agreement was merely one of the inevitable consequences of the closure.

In all the above cases, what petitioner raises are essentially questions of the sufficiency of the evidence presented to support respondent NLRC's findings that respondent company had not committed unfair labor practices. The rulings of the NLRC not being tainted with unfairness or arbitrariness that would amount to abuse of discretion or lack of jurisdiction, this Court finds no necessity to disturb much less reverse the same.

WHEREFORE, premises considered, the instant petitions are hereby dismissed for lack of merit.

Costs against petitioner.

SO ORDERED.

Makasiar (Chairman), Aquino, Concepcion, Jr., De Castro and Escolin, JJ., concur.
Abad Santos, J., took no part.

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[1] Resolution, NLRC Case No. 4611-ULP, p. 5; Rollo. p. 55.
[2] Ibid.; Rollo, pp. 51-52.
[3] Answer in 5191-ULP; Rollo, pp. 79-83.
[4] Rollo, p. 124.
[5] International Hardwood and Veneer Co. of the Phil. vs. Hon. Vicente Leogardo et al., G.R. No. 57429, Oct. 28, 1982, 117 SCRA 967; Genconsu Free Workers Union vs. Inciong, 91 SCRA 311; Dy Keh Beng vs. Int'l. Labor and Marine Union of the Phils., 90 SCRA 162.
[6] Consolidated Farms Inc. II vs. Noriel, 84 SCRA 469; Scott vs. Inciong, 68 SCRA 473; San Miguel Corporation vs. Secretary of Labor, 64 SCRA 56.
[7] Manila Trading and Supply Co. vs. Manila Trading Laborer's Association, 83 Phil. 297; Galsim vs. Philippine National Bank, 29 SCRA 293; PECO vs. PECO Employees Union, 107 Phil. 1003; Nevans vs. Court of Industrial Relations, 23 SCRA 1321; Gas Corporation of the Philippines vs. Inciong, 93 SCRA 652.
[8] Rollo, p. 82.
[9] NLRC Resolution in 519-ULP, Rollo, p. 91.
[10] Rollo, p. 117.
[11] Rollo, p.126.
[12] Resolution, NLRC Case No. 4412-ULP, p. 5; Rollo, p. 227.
