ChanRobles Publishing Company

SUPREME COURT
FIRST DIVISION

ST. SCHOLASTICA'S COLLEGE,
***Petitioner*,**

-versus-

G.R. No. 100158
June 29, 1992

HON. RUBEN TORRES, in his capacity as SECRETARY OF LABOR AND EMPLOYMENT, and SAMAHAN NG MANGGAGAWANG PANG-EDUKASYON SA STA. ESKOLASTIKA-NAFTEU,
***Respondents*.**
x---x

D E C I S I O N

BELLOSILLO, *J*.:

The principal issue to be resolved in this recourse is whether striking union members terminated for abandonment of work after failing to comply with return-to-work orders of the Secretary of Labor and Employment (SECRETARY, for brevity) should by law be reinstated.

On 20 July 1990, petitioner St. Scholastica's College (COLLEGE, for brevity) and private respondent Samahan ng Manggagawang Pang-Edukasyon sa Sta. Eskolastika — NAFTEU (UNION, for brevity)

initiated negotiations for a first-ever collective bargaining agreement. A deadlock in the negotiations prompted the UNION to file on 4 October 1990 a Notice of Strike with the Department of Labor and Employment (DEPARTMENT, for brevity), docketed as NCMB-NCR-NS-10-826-90.

On 5 November 1990, the UNION declared a strike which analyzed the operations of the COLLEGE. Affecting as it did the interest of the students, public respondent SECRETARY immediately assumed jurisdiction over the labor dispute and issued on the same day, 5 November 1990, a return-to-work order. The following day, 6 November 1990, the UNION was served the Order. On 7 November 1990, instead of returning to work, the UNION filed a motion for reconsideration of the return-to-work order questioning inter alia the assumption of jurisdiction by the SECRETARY over the labor dispute.

On 9 November 1990, the COLLEGE sent individual letters to the striking employees enjoining them to return to work not later than 8.00 o'clock A.M. of 12 November 1990 and, at the same time, giving notice to some twenty-three (23) workers that their return would be without prejudice to the filing of appropriate charges against them. In response, the UNION presented a list of six (6) demands to the COLLEGE a dialogue conducted on 11 November 1990. The most important of these demands was the unconditional acceptance back to work of the striking employees. But these were flatly rejected.

Likewise, on 9 November 1990, respondent SECRETARY denied reconsideration of his return-to-work order and sternly warned the striking employees to comply with its terms. On 12 November 1990, the UNION received the Order.

Thereafter, particularly on 14 and 15 November 1990, the parties held conciliation meetings before the National Conciliation and Mediation Board where the UNION pruned down its demands to three (3), viz.: that striking employees be reinstated under the same terms and conditions before the strike; that no retaliatory or disciplinary action be taken against them; and, that CBA negotiations be continued. However, these efforts proved futile as the COLLEGE remained steadfast in its position that any return-to-work offer should be unconditional.

On 16 November 1990, the COLLEGE manifested to respondent SECRETARY that the UNION continued to defy his return-to-work order of 5 November 1990 so that "appropriate steps under the said circumstances" may be undertaken by him.[1]

On 23 November 1990, the COLLEGE mailed individual notices of termination the striking employees, which were received on 26 November 1990, or later. The UNION officers and members then tried to return to work but were no longer accepted by the COLLEGE.

On 5 December 1990, a Complaint for Illegal Strike was filed against the UNION, its officers and several of its members before the National Labor Relations Commission (NLRC), docketed as NLRC Case No. 00-12-06256-90.

The UNION moved for the enforcement of the return-to-work order before respondent SECRETARY, citing "selective acceptance of returning strikers" by the COLLEGE. It also sought dismissal of the complaint. Since then, no further hearings were conducted.

Respondent SECRETARY required the parties to submit their respective position papers. The COLLEGE prayed that respondent SECRETARY uphold the dismissal of the employees who defied his return-to-work order.

On 12 April 1991, respondent SECRETARY issued the assailed Order which, inter alia directed the reinstatement of striking UNION members, premised on his finding that no violent or otherwise illegal act accompanied the conduct of the strike and that a fledgling UNION like private respondent was "naturally expected to exhibit unbridled if inexperienced enthusiasm, in asserting its existence".[2] Nevertheless, the aforesaid Order held UNION officers responsible for the violation of the return-to-work orders of 5 and 9 November 1990 and, correspondingly, sustained their termination.

Both parties moved for partial reconsideration of the Order, with petitioner COLLEGE questioning the wisdom of the reinstatement of striking UNION members, and private respondent UNION, the dismissal of its officers.

On 31 May 1991, in a Resolution, respondent SECRETARY denied both motions. Hence, this Petition for Certiorari, with Prayer for the Issuance of a Temporary Restraining Order.

On 26 June 1991, We restrained the SECRETARY from enforcing his assailed Orders insofar as they directed the reinstatement of the striking workers previously terminated.

Petitioner questions the assumption by respondent SECRETARY of jurisdiction to decide on termination disputes, maintaining that such jurisdiction is vested instead in the Labor Arbiter pursuant to Art. 217 of the Labor Code, thus —

> "Art. 217. Jurisdiction of Labor Arbiters and the Commission. — (a) Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, the following cases involving all workers, whether agricultural or non-agricultural: 2. Termination disputes. 5. Cases arising from any violation of Article 264 of this Code, including questions on the legality of strikes and lock-outs."

In support of its position, petitioner invokes Our ruling in PAL vs. Secretary of Labor and Employment[3] where We held:

> "The Labor Secretary exceeded his jurisdiction when he restrained PAL from taking disciplinary measures against its guilty employees, for, under Art. 263 of the Labor Code, all that the Secretary may enjoin is the holding of the strike but not the company's right to take action against union officers who participated in the illegal strike and committed illegal acts."

Petitioner further contends that following the doctrine laid down in Sarmiento vs. Tuico[4] and Union of Filipro Employees vs. Nestle' Philippines, Inc.,[5] workers who refused to obey a return-to-work order are not entitled to be paid for work not done, or to reinstatement to the positions they have abandoned by reason of their refusal to return thereto as ordered.

Taking a contrary stand, private respondent UNION pleads for reinstatement of its dismissed officers considering that the act of the UNION in continuing with its picket was never characterized as a "brazen disregard of successive legal orders", which was readily apparent in Union Filipro Employees vs. Nestle' Philippines, Inc., supra, nor was it a willful refusal to return to work, which was the basis of the ruling in Sarmiento vs. Tuico, supra. The failure of UNION officers and members to immediately comply with the return-to-work orders was not because they wanted to defy said orders; rather, they held the view that academic institutions were not industries indispensable to the national interest. When respondent SECRETARY denied their motion, for reconsideration, however, the UNION intimated that efforts ware immediately initiated to fashion out a reasonable return-to-work agreement with the COLLEGE, albeit, it failed.

The issue on whether respondent SECRETARY has the power to assume jurisdiction over a labor dispute and its incidental controversies, causing or likely to cause a strike or lockout in an industry indispensable to the national interest, was already settled in International Pharmaceuticals, Inc. Secretary of Labor and Employment.[6] Therein, We ruled that:

> "[T]he Secretary was explicitly granted by Article 263 (g) of the Labor Code the authority to assume jurisdiction over a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, and decide the same accordingly. Necessarily, this authority to assume jurisdictional over the said labor dispute must include and extend to all questions and controversies arising therefrom, including cases over which the Labor Arbiter has exclusive jurisdiction."

And rightly so, for, as found in the aforesaid case, Article 217 of the Labor Code did contemplate of exceptions thereto where the SECRETARY is authorized to assume jurisdiction over a labor dispute otherwise belonging exclusively to the Labor Arbiter. This is readily evident from its opening proviso reading "(e)xcept as otherwise provided under this Code."

Previously, We held that Article 263 (g) of the Labor Code was broad enough to give the Secretary of Labor and Employment the power to take jurisdiction over an issue involving unfair labor practice.[7]

At first glance, the rulings above stated seem to run counter to that of PAL vs. Secretary or Labor and Employment, supra, which was, cited by petitioner. But the conflict is only apparent, not real.

To recall, We ruled in the latter case that the jurisdiction of the Secretary of Labor and Employment in assumption and/or certification cases is limited to the issues that are involved in the disputes or to those that are submitted to him for resolution. The seeming difference is, however, reconcilable. Since the matter on the legality or illegality of the strike was never submitted to him for resolution, he was thus found to have exceeded his jurisdiction when he restrained the employer from taking disciplinary action against employees who staged an illegal strike.

Before the Secretary of Labor and Employment may take cognizance of an issue which is merely incidental to the labor dispute, therefore, the same must be involved in the labor dispute itself, or otherwise submitted to him for resolution. If it was not, as was the case in PAL vs. Secretary of Labor and Employment, supra, and he nevertheless acted on it, that assumption of jurisdiction is tantamount to a grave abuse of discretion. Otherwise, the ruling in International Pharmaceuticals, Inc. vs. Secretary of Labor and Employment, supra, will apply.

The submission of an incidental issue of a labor dispute, in assumption and/or certification cases, to the Secretary of Labor and Employment for his resolution is thus one of the instances referred to whereby the latter may exercise concurrent jurisdiction together with the Labor Arbiters.

In the instant petition, the COLLEGE in its Manifestation, dated 16 November 1990, asked the “Secretary of Labor to take the appropriate steps under the said circumstances.” It likewise prayed in its position paper that respondent SECRETARY uphold its termination of the striking employees. Upon the other hand, the UNION questioned the

termination of its officers and members before respondent SECRETARY by moving for the enforcement of the return-to-work orders. There is no dispute then that the issue on the legality of the termination of striking employees was properly submitted to respondent SECRETARY for resolution.

Such an interpretation will be in consonance with the intention of our labor authorities to provide workers immediate access to their rights and benefits without being inconvenienced by the arbitration and litigation process that prove to be not only nerve-wracking, but financially burdensome in the long run. Social justice legislation, to be truly meaningful and rewarding to our workers, must not be hampered in its application by long-winded arbitration and litigation. Rights must be asserted and benefits received with the least inconvenience. For, labor laws are meant to promote, not defeat, social justice (Maternity Children's Hospital vs. Hon. Secretary of Labor).[8] After all, Art. 4 of the Labor Code does state that all doubts in the implementation and interpretation of its provisions, including its implementing rules and regulations, shall be resolved in favor of labor.

We now come to the more pivotal question of whether striking union members, terminated for abandonment of work after failing to comply strictly with a return-to-work order, should be reinstated.

We quote hereunder the pertinent provisions of law which govern the effects of defying a return-to-work order:

1. Article 263 (g) of the Labor Code —

   "Art. 263. Strikes, picketing, and lockouts. — x x x (g) 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. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one

has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lookout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure compliance with this provision as well as with such orders as he may issue to enforce the same." (as amended by Sec. 27, R.A. 6715; Emphasis supplied).

2. Article 264, same Labor Code —

"Art. 264. Prohibited activities. — (a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding Article or without the necessary strike or lockout vote first having been obtained and reported to the Ministry.

"No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout. (Emphasis supplied).

"Any worker whose employment has been terminated as a consequence of an unlawful lockout shall be entitled to reinstatement with full back wages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status; Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike." (Emphasis supplied).

3. Section 6, Rule IX, of the New Rules of Procedure of the NLRC (which took effect on 31 August 1990) —

> "Section 6. Effects of Defiance. — Non-compliance with the certification order of the Secretary of Labor and Employment or a return to work order of the Commission shall be considered an illegal act committed in the course of the strike or lookout and shall authorize the Secretary of Labor and Employment or the Commission, as the case may be, to enforce the same under pain or loss of employment status or entitlement to full employment benefits from the locking-out employer or backwages, damages and/or other positive and/or affirmative reliefs, even to criminal prosecution against the liable parties." (Emphasis supplied).

Private respondent UNION maintains that the reason they failed to immediately comply with the return-to-work order of 5 November 1990 was because they questioned the assumption of jurisdiction of respondent SECRETARY. They were of the impression that being an academic institution, the school could not be considered an industry indispensable to national interest, and that pending resolution of the issue, they were under no obligation to immediately return to work.

This position of the UNION is simply flawed. Article 263 (g) Labor Code provides that if a strike has already taken place at the time of assumption, "all striking employees shall immediately return to work." This means that by its very terms, a return-to-work order is immediately effective and executory notwithstanding the filing of a motion for reconsideration (University of Sto. Tomas vs. NLRC).[9] It must be strictly complied with even during the pendency of any petition questioning its validity (Union of Filipro Employees vs. Nestle' Philippines, Inc., supra) After all, the assumption and/or certification order is issued in the exercise of respondent SECRETARY's compulsive power of arbitration and, until set aside, must therefore be immediately complied with.

The rationale for this rule is explained in University of Sto. Tomas vs. NLRC, supra, citing Philippine Air Lines Employees Association vs. Philippine Air Lines, Inc.,[10] thus —

> "To say that its (return-to-work order) effectivity must wait affirmance in a motion for reconsideration is not only to emasculate it but indeed to defeat its import, for by then the deadline fixed for the return to work would, in the ordinary course, have already passed and hence can no longer be affirmed insofar as the time element is concerned."

Moreover, the assumption of jurisdiction by the Secretary of Labor and Employment over labor disputes involving academic institutions was already upheld in Philippine School of Business Administration vs. Noriel[11] where We ruled thus:

> "There is no doubt that the on-going labor dispute at the school adversely affects the national interest. The school is a duly registered educational institution of higher learning with more or less 9,000 students. The on-going work stoppage at the school unduly prejudices the students and will entail great loss in terms of time, effort and money to all concerned. More important, it is not amiss to mention that the school is engaged in the promotion of the physical, intellectual and emotional well-being of the country's youth."

Respondent UNION's failure to immediately comply with the return-to-work order of 5 November 1990, therefore, cannot be condoned.

The respective liabilities of striking union officers and members who failed to immediately comply with the return-to-work order is outlined in Art. 264 of the Labor Code which provides that any declaration of a strike or lockout after the Secretary of Labor and Employment has assumed jurisdiction over the labor dispute is considered an illegal act. Any worker or union officer who knowingly participates in a strike defying a return-to-work order may, consequently, "be declared to have lost his employment status."

Section 6, Rule IX, of the New Rules of Procedure of the NLRC, which provides the penalties for defying a certification order of the Secretary

of Labor or a return-to-work order of the Commission, also reiterates the same penalty. It specifically states that non-compliance with the aforesaid orders, which is considered an illegal act, "shall authorize the Secretary of Labor and Employment or the Commission to enforce the same under pain of loss of employment status." Under the Labor Code, assumption and/or certification orders are similarly treated.

Thus, we held in Sarmiento vs. Tuico, supra, that by insisting on staging the restrained strike and defiantly picketing the company premises to prevent the resumption of operations, the strikers have forfeited their right to be readmitted, having abandoned their positions, and so could be validly replaced.

We recently reiterated this stance in Federation of Free Workers vs. Inciong,[12] wherein we cited Union of Filipro Employees vs. Nestle' Philippines, Inc., supra, thus —

> "A strike undertaken despite the issuance by the Secretary of Labor of an assumption or certification order becomes a prohibited activity and thus illegal, pursuant to the second paragraph of Art. 264 of the Labor Code as amended. The union officers and members, as a result, are deemed to have lost their employment status for having knowingly participated in an illegal act."

Despite knowledge of the ruling in Sarmiento vs. Tuico, supra, records of the case reveal that private respondent UNION opted to defy not only the return-to-work order of 5 November 1990 but also that of 9 November 1990.

While they claim that after receiving copy of the Order of 9 November 1990 initiatives were immediately undertaken to fashion out a return-to-work agreement with management, still, the unrebutted evidence remains that the striking union officers and members tried to return to work only eleven (11) days after the conciliation meetings ended in failure, or twenty (20) days after they received copy of the first return-to-work order on 5 November 1990.

The sympathy of the Court which, as a rule, is on the side of the laboring classes (Reliance Surety & Insurance Co., Inc. vs. NLRC),[13] cannot be extended to the striking union officers and members in the instant petition. There was willful disobedience not only to one but two return-to-work orders. Considering that the UNION consisted mainly of teachers, who are supposed to be well-lettered and well-informed, the Court cannot overlook the plain arrogance and pride displayed by the UNION in this labor dispute. Despite containing threats of disciplinary action against some union officers and members who actively participated in the strike, the letter dated 9 November 1990 sent by the COLLEGE enjoining the union officers and members to return to work on 12 November 1990 presented the workers an opportunity to return to work under the same terms and conditions prior to the strike. Yet, the UNION decided to ignore the same. The COLLEGE, correspondingly, had every right to terminate the services of those who chose to disregard the return-to-work orders issued by respondent SECRETARY in order to protect the interests of its students who form part of the youth of the land.

Lastly, the UNION officers and members also argue that the doctrine laid down in Sarmiento vs. Tuico, supra, and Union of Filipro Employees vs. Nestle' Philippines, Inc., supra, cannot be made applicable to them because in the latter two cases, workers defied the return-to-work orders for more than five (5) months. Their defiance of the return-to-work order, it is said, did not last more than a month.

Again, this line of argument must be rejected. It is clear from the provisions above quoted that from the moment a worker defies a return-to-work order, he is deemed to have abandoned his job. It is already in itself knowingly participating in an illegal act. Otherwise, the worker will just simply refuse to return to his work and cause a standstill they refused to discharge or allow the management to fill (Sarmiento vs. Tuico, supra). Suffice it to say, in Federation of Free Workers vs. Inciong, supra, the workers were terminated from work after defying the return-to-work order for only nine (9) days. It is indeed inconceivable that an employee, despite a return-to-work order, will be allowed in the interim to stand akimbo and wait until five (5) orders shall have been issued for their return before they report back to work. This is absurd.

In fine, respondent SECRETARY gravely abused his discretion when he ordered the reinstatement of striking union members who refused to report back to work after he issued two (2) return-to-work orders, which in itself is knowingly participating in an illegal act. The Order in question is, certainly, contrary to existing law and jurisprudence.

WHEREFORE, the Petition for Certiorari is hereby **GRANTED**. The Order of 12 April 1991 and the Resolution of 31 May 1991 both issued by respondent Secretary of Labor and Employment are **SET ASIDE** insofar as they order the reinstatement of striking union members terminated by petitioner, and the temporary restraining order We issued on June 26, 1991, is made permanent.

No costs.

SO ORDERED.

Cruz, Griño-Aquino and Bellosillo, *JJ.*, concur.

---

[1] Rollo, p. 44.
[2] Ibid., p. 34.
[3] G.R. No. 88210, 23 January 1991; 193 SCRA 223.
[4] Nos. L-75271-73, 27 June 1988; 162 SCRA 676.
[5] G.R. Nos. 88710-12, 19 December 1990; 192 SCRA 396.
[6] G.R. Nos. 92981-83, 9 January 1992.
[7] Meycuayan College vs. Drilon, G.R. No. 81144, 7 May 1990; 185 SCRA 50.
[8] G.R. No. 78909, 30 June 1989; 174 SCRA 632.
[9] G.R. No. 89920, 18 October 1990; 190 SCRA 759.
[10] 38 SCRA 372 (1971).
[11] G.R. No. 80648, 15 August 1988, 164 SCRA 402.
[12] No. L-49983, 20 April 1992.
[13] G.R. Nos. 86917-18, 25 January 1991; 193 SCRA 365.

Philippine Copyright © 2005
ChanRobles Publishing Company
www.chanrobles.com