SUPREME COURT
EN BANC

VISAYAN STEVEDORE TRANSPORTATION COMPANY (VISTRANCO) and RAFAEL XAUDARO,
***Petitioners*,**

-versus-

G.R. No. L-21696
February 25, 1967

COURT OF INDUSTRIAL RELATIONS, UNITED WORKERS' & FARMERS' ASSOCIATION (UWFA), VENANCIO DANOOG, BUENAVENTURA AGARCIO and 137 OTHERS,
***Respondents*.**
x----------x

D E C I S I O N

CONCEPCION, *C.J.*:

Appeal by *Certiorari*, taken by the Visayan Stevedoring Transportation Co. — hereinafter referred to as the Company — and Rafael Xaudaro from an order of the Court of Industrial Relations, the dispositive part of which reads:

> "The Court, finding respondents guilty of unfair labor practice as charged, directs them to cease and desist from such unfair

labor practice and to reinstate the complainants, with back wages from the date they were laid off until reinstated."

The Company is engaged in the loading and unloading of vessels, with a branch office in Hinigaran, Negros Occidental under the management of said Rafael Xaudaro. Its workers are supplied by the United Workers and Farmers Association, a labor organization — hereinafter referred to as UWFA — whose men (affiliated to various labor unions) have regularly worked as laborers of the Company during every milling season since immediately after World War II up to the milling season immediately preceding November 11, 1955, when the Company refused to engage the services of Venancio Dano-og, Buenaventura Agarcio and 137 other persons named in the complaint filed in case No. 62-ULP-Cebu of the Court of Industrial Relations — and hereinafter referred to as the Complainants — owing, they claim, to their union activities. At the behest of the UWFA and the Complainants, a complaint for unfair labor practice was, accordingly, filed against the Company and Xaudaro with the Court of Industrial Relations — hereinafter referred to as the CIR — in which it was docketed as Case No. 62-ULP-Cebu. In due course, its Presiding Judge issued the order appealed from, which was affirmed by the CIR sitting en banc. Hence this petition for review by *certiorari*.

The issues raised in this appeal, are (1) whether there is employer-employee relationship between the Company and the Complainants; (2) whether the Company has been guilty of unfair labor practice; and (3) whether the order of reinstatement of Complainants, with backpay, is a reversible error.

With respect to the first question, the Company maintains that it had never had an employer-employee relationship with the Complainants, the latter's services having allegedly been engaged by the UWFA, not by the Company, and that, in any event, whatever contractual relation there may have been between the Company and the Complainants had ceased at the end of each milling season, so that the Company can not be guilty of unfair labor practice in refusing to renew said relation at the beginning of the milling season in November, 1955.

This pretense is untenable. Although Complainants, through the labor union to which they belong, form part of UWFA, there was no

independent contract between the latter, as an organization, and the Company. After the first milling season subsequently to the liberation of the Philippines, Complainants merely reported for work, at the beginning of each succeeding milling season, and their services were invariably availed of by the Company, although an officer of the UWFA or union concerned determined the laborers who would work at a given time, following a rotation system arranged therefor.

In the performance of their duties, Complainants worked, however, under the direction and control of the officers of the Company, whose paymaster, or disbursing officer paid the corresponding compensation directly to said Complainants, who, in turn, acknowledged receipt in payrolls of the company. We have already held that laborers working under these conditions are employees of the Company,[1] in the same manner as watchmen or security guards furnished, under similar circumstances, by watchmen or security agencies,[2] inasmuch as the agencies and/or labor organizations involved therein merely performed the role of a representative or agent of the employer in the recruitment of men needed for the operation of the latter's business.[3]

As regards the alleged termination of employer-employee relationship between the Company and the Complainants at the conclusion of each milling season, it is, likewise, settled that the workers concerned are considered, not separated from the service, but, merely on leave of absence, without pay, during the off-season, their employer-employee relationship being merely deemed suspended, not severed, in the meanwhile.[4]

Referring to the unfair labor practice charge against the Company, we find, with the CIR, that said charge is substantially borne out by the evidence of record, it appearing that the workers not admitted to work beginning from November, 1955, were precisely those belonging to the UWFA, and that Xaudaro, the Company branch Manager, had told them point bank that severance of their connection with the UWFA was the remedy, if they wanted to continue working with the Company.

As to the payment of back wages, the law[5] explicitly vests in the CIR discretion to order the reinstatement with back pay of laborers

dismissed due to union activities, and the record does not disclose any cogent reason to warrant interference with the action taken by said Court.[6] Wherefore, the order and resolution appealed from are hereby affirmed, with costs against petitioners herein. It is so ordered.

Reyes, Dizon, Regala, Makalintal, Bengzon, Zaldivar, Sanchez and Ruiz Castro, *JJ*. concur.

---

[1] ICAWO vs. CIR L-21465 (March 31, 1966); Manila Hotel Co. vs. CIR-18873 (September 30, 1963).
[2] Velez vs. PAV Watchman's Union, L-12639, April 27, 1960; U.S. Lines vs. Associated Watchmen & Security Union, L-12208-11, May 21, 1958.
[3] Madrigal Shipping Co. vs. WCC, L-17495, June 29, 1962, Asia Steel Corp. vs. WCC, L-7636, June 27, 1955; Mansal vs. Gocheco Lumber Co., L-8017, April 30, 1955; Flores vs. Compania Maritima, 57 Phil., 905, 908.
[4] Manila Hotel Co. vs. CIR, supra; ICAWO vs. CIR, supra.
[5] "If, after investigation, the Court shall be of the opinion that any person named in the complaint has engaged in or is engaging in any unfair labor practice, then the Court shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice and take such affirmative action as will effectuate the policies of this Act, including (but not limited to) reinstatement of employees with or without back pay and including rights of the employees prior to dismissal including seniority."
[6] Compañia Maritima vs. United Seaman's Union of the Philippines, L-9923, June 20, 1958; Talisay-Silay Milling Co., Inc. vs. CIR 106 Phil. 1081; Caño vs. CIR, L-15594, October 31, 1960; Henares & Sons vs. National Labor Union, L-17535, December 28, 1960; Allied Workers Association of the Philippines (AWA) San Carlos Chapter vs. Philippine Land Air Sea Labor Union (PLASLU) et al. L-15447-8, January 31, 1963; MP Transit & Taxi Co., Inc. vs. De Guzman, L-18810, April 23, 1963; and Big Five Products Workers Union vs. CIR, L-17600, July 31, 1963.
