SUPREME COURT
EN BANC

AIR LINE PILOTS ASSOCIATION OF THE PHILIPPINES (GASTON GROUP),
***Petitioner*,**

-versus-

G.R. No. L-33705
April 15, 1977

THE COURT OF INDUSTRIAL RELATIONS and AIR LINES PILOTS ASSOCIATION OF THE PHILIPPINES (GOMEZ GROUP),
***Respondents*.**
x----------x

CESAR CHAVEZ, FRANCISCO ACHONDOA, SERAFIN ADVINCULA, MAXIMO R. AFABLE, ALFREDO AGBULOS, SOLOMON A. HERRERA, NEMESIO ALMARIO, JULIUS AQUINO, RENE ARELLANO, CARLITO ARRIBE, FERNANDO AYUBO, GENEROSO BALTAZAR, EDDIE BATONGMALAQUE, URSO D. BELLO, TOMAS BERNALES, RUDOLFO BIDES, AUGUSTO BLANCO, HORACIO BOBIS, ROMEO B. BONTUYAN, ANTONINO E. BUENAVENTURA, PEDRO BUÑI, ISABELO BUSTAMANTE, JOSE BUSTAMANTE, RICARDO BUSTAMANTE, ERNESTO D. BUZON,

TRANQUILINO CABE, ISIDORO CALLEJA, CESAR CAÑETA, FERNANDO CARAG, ROGELIO CASINO, JOSE CASTILLO, NICANOR CASTILLO, RAFAEL CASTRO, JOSE DE LA CONCEPCION, CARLOS CRUZ, WILFREDO CRUZ, MAGINOO CUSTODIO, TOMAS DE LARA, JOSE DE LEON, BENJAMIN DELFIN, GREGORIO DELGADO, IRINEO DEROTAS, DUMAGUIN, BENEDICTO FELICIANO, RODRIGO FRIAS, JOSE GIL, ANTONIO GOMEZ, ROBERTO GONZALEZ, BIENVENIDO GOROSPE, AMADO R. GULOY, JOSE GUTIERREZ, ANTONIO IBARRETA, MUSSOLINI IGNACIO, ROBERTO IÑIGO, MATIAS JABIER, ROGELIO JARAMILLO, HARRY JISON, ALBERTO JOCSON, VALENTIN LABATA, JAIME LACSON, JORGE LACSON, FRANCISCO LANSANG, MENANDRO LAUREANO, JESUS LAQUINDANUM, LEONARDO LONTOC, RAUL LOPEZ, RENE LORENZO, OSBORNE LUCERO, ARISTON LUISTRO, MANUEL LUKBAN, VIRGILIO MABABA, MARIANO MAGTIBAY, EDGARDO MAJARAIS, EMILIO MALLARE, LEONCIO MANARANG, ALFREDO MARBELLA, ALFREDO MARTINEZ, EDILBERTO MEDINA, CLEMENTE MIJARES, EDMUNDO MISA, CONRADO MONTALBAN, FERNANDO NAVARRETE, EUGENIO NAVEA, ERNESTO TOMAS, NIERRAS, PATROCINIO OBRA, VICTORINO ORGULLO, CLEMENTE PACIS, CESAR PADILLA, ROMEO PAJARILLO, RICARDO PANGILINAN, CIRILO

PAREDES, AMANDO PARIS, ALBERTO PAYUMO, PEDRO PENERA, FRANCISCO PEPITO, ADOLFO PEREZ, DOMINGO POLOTAN, EDUARDO RAFAEL, SANTOS RAGAZA, TEODORO RAMIREZ, RAFAEL RAVENA, ANTONIO REYES, GREGORIO RODRIGUEZ, LEONARDO SALCEDO, HENRY SAMONTE, PAQUITO SAMSON, ARTHUR B. SANTOS, ARTURO T. SANTOS, ANGELES SARTE, VALERIANO SEGURA, RUBEN SERRANO, LINO SEVERINO, ANGEL SEVILLA, BENJAMIN SOLIS, PATROCINIO TAN, RAFAEL TRIAS, EDGARDO VELASCO, LORETO VERGEIRE, RUBEN VICTORINO, ALEXANDER VILLACAMPA, CAMILO VILLAGONZALO, BAYANI VILLANUEVA, RIZAL VILLANUEVA, ROMULO VILLANUEVA, ROLANDO VILLANUEVA, CARLOS VILLAREAL, and ALFONSO SAPIRAIN, AND OTHERS and AIR LINE PILOTS ASSOCIATION OF THE PHILIPPINES (GASTON)

Petitioners,

-versus-

G.R. No. L-35206
April 15, 1977

THE HONORABLE JUDGES ARSENIO I. MARTINEZ, AMANDO C. BUGAYONG and JOAQUIN M. SALVADOR of the COURT OF INDUSTRIAL RELATIONS, BEN HUR GOMEZ, claiming to represent AIR LINE PILOTS ASSOCIATION OF THE PHILIPPINES,

CARLOS ORTIZ AND OTHERS, and PHILIPPINE AIR LINES, INC.,
Respondents.
x----------x

D E C I S I O N

CASTRO, *C.J.*:

SEPARATE OPINIONS:

TEEHANKEE, J., concurring:

These are two Petitions for *Certiorari* (L-33705 and L-35206), consolidated for purposes of Decision because they involve more or less the same parties and interlocking issues.

In L-33705 the petitioner Air Line Pilots Association of the Philippines (Gaston group) maintains that the Court of Industrial Relations acted without jurisdiction in passing upon (1) the question of which, in a certification proceeding, between the set of officers elected by the group of Philippine Air Lines pilots headed by Captain Felix Gaston, on the one hand, and the set of officers elected by the group headed by Captain Ben Hur Gomez, on the other, is the duly elected set of officers of the Air Line Pilots Association of the Philippines, and (2) the question of which, between the two groups, is entitled to the name, office and funds of the said Association.

In L-35206 the individual petitioners (numbering 127) and the Air Line Pilots Association of the Philippines (hereinafter referred to as ALPAP) (Gaston) maintain that the industrial court acted without jurisdiction and with grave abuse of discretion in promulgating its resolution dated June 19, 1972 which suspended the hearing of the said petitioners' plea below for reinstatement and/or return to work in the Philippine Air Lines (hereinafter referred to as PAL) or, alternatively, the payment of their retirement and/or separation pay, as the case may be, until this Court shall have decided L-33705.

L-33705 – On January 2, 1971, the Air Line Pilots Association of the Philippines, represented by Ben Hur Gomez who claimed to be its President, filed a petition with the Court of Industrial Relations praying for certification as the sole and exclusive collective bargaining representative of "all the pilots now under employment by the Philippine Air Lines, Inc. and are on active flight and/or operational assignments." The petition which was docketed in the sala of Judge Joaquin M. Salvador as Case 2939-MC was opposed in the name of the same association by Felix C. Gaston (who also claimed to be its President) on the ground that the industrial court has no jurisdiction over the subject-matter of the petition "because a certification proceeding in the Court of Industrial Relations is not the proper forum for the adjudication of the question as to who is the lawful president of a legitimate labor organization."

On May 29, 1971, after hearing the petition, Judge Salvador rendered a decision certifying the —

> "ALPAP composed only of pilots employed by PAL with Capt. Ben Hur Gomez as its president, as the sole and exclusive bargaining representative of all the pilots employed by PAL and are on active flights and/or operational assignments, and as such is entitled to all the rights and privileges of a legitimate labor organization, including the right to its office and its union funds."

The following circumstances were cited by Judge Salvador to justify the conclusions reached by him in his decision, namely:

(a) that there has been no certification election within the period of 12 months prior to the date the petition for certification was filed;

(b) that the PAL entered into a collective bargaining agreement with ALPAP for "pilots in the employ of the Company" only

for the duration of the period from February 1, 1969 to January 31, 1972;

(c) that PAL pilots belonging to the Gaston group, in defiance of court orders issued in Case 101-IPA(B) (see L-35206, infra) retired/resigned en masse from the PAL and accompanied this with actual acts of not reporting for work;

(d) that the pilots affiliated with the Gaston group tried to retrieve their deposits and other funds from the ALPAP Cooperative Credit Union on the ground that they have already retired/resigned from PAL;

(e) that some of the members of the Gaston group joined another airline after their retirement/resignation;

(f) that the Gaston group claimed before the industrial court that the order enjoining them from retiring or resigning constituted a violation of the prohibition against involuntary servitude (see L-35206, infra); and

(g) that the contention that the mass retirement or resignation was merely an involuntary protest by those affiliated with the Gaston group is not borne out by the evidence as, aside from their aforementioned acts, the said group of pilots even filed a civil complaint against the PAL in which the cessation of their employment with PAL was strongly stressed by them.

It appears that prior to the filing of the certification petition below, a general ALPAP membership meeting was held on October 30, 1970, at which 221 out of 270 members adopted a resolution amending ALPAP's constitution and by-laws by providing in a new section thereof that —

> "Any active member who shall be forced to retire or forced to resign or otherwise terminated for union activities as solely determine by the Association shall have the option to either continue to be and remain as an active member in good

standing or to resign in writing his active membership with the Association."

According to ALPAP (Gaston), the foregoing amendment was adopted "In anticipation of the fact that they may be forced to resign or retire because of their 'union activities.'" At this period of time, PAL and ALPAP were locked in labor dispute certified by the President to the industrial court and docketed as Case 101-IPA(B) (see L-35206, infra).

On December 12, 1970, despite a no-work-stoppage order of the industrial court, a substantial majority of ALPAP members filed letters of retirement/resignation from the PAL.

Thereafter, on December 18-22, 1970, an election of ALPAP officers was held, resulting in the election of Felix C. Gaston as President by 180 votes. Upon the other hand, on December 23, 1970, about 45 pilots who did not tender their retirement or resignation with PAL gathered at the house of Atty. Morabe and elected Ben Hur Gomez as ALPAP President.

On June 3, 1971, ALPAP (Gaston) filed an opposition in Case 101-IPA(B) to an urgent ex parte motion of the PAL to enjoin the members of ALPAP from retiring or resigning en masse. It was claimed by ALPAP (Gaston that —

"1. Insofar as herein oppositors are concerned, the allegations of respondent that their 'resignations' and 'retirements' are sham resignations and retirements and that 'There is no honest or genuine desire to terminate the employee relationship with PAL' are completely false. Their bona fide intention to terminate their employer-employee relationship with PAL is conclusively shown by the fact that they have not sought reinstatement in or re-employment by PAL and also by the fact that they are either seeking employment in another airline company;

"2. Respondent in effect recognized such bona fide intention of the herein oppositors as shown by the fact that it accepted

said resignations and retirements and did not initiate any contempt proceedings against them; and

"3 The action of herein oppositors in filing their resignations and retirements was a legitimate exercise of their legal and constitutional rights and the same, therefore, cannot he considered as a valid ground to deprive them of benefits which they had already earned including, among others, retirement benefits to which they are entitled under the provisions of an existing contract between petitioner and respondent. Such deprivation would constitute impairment of the obligations of contract."

On June 15, 1971, the industrial court en banc, acting on a motion for reconsideration filed by ALPAP (Gaston) in Case 2939-MC against the decision of Judge Salvador, denied the same. The said court's resolution was then appealed to this Court (L-33705).

L-35206 – On October 3, 1970, the President of the Philippines certified a labor dispute between members of ALPAP and the PAL to the Court of Industrial Relations. The dispute which had to do with union economic demands was docketed as Case No. 101-IPA(B) and was assigned to Judge Ansberto P. Paredes.

On October 7, 1970, after conferring with both parties for two days, Judge Paredes issued a return-to-work order, the pertinent portions of which read as follows:

"PALEA and ALPAP, their officers and members, and all employees who have joined the present strikes which resulted from the labor disputes certified by the President to the Court, or who have not reported for work as a result of the strikes, are hereby ordered forthwith to call off the strikes and lift the picket lines and return to work not later than Friday, October 9, 1970, and management to admit them back to work under the same terms and conditions of employment existing before the strikes, including what has been earlier granted herein.

"PAL is ordered not to suspend, dismiss or lay-off any employee as a result of these strikes. Read into this order is the provision

of Section 19, C.A. 103, as amended, for the guidance of the parties.

x x x

"Failure to comply with any provision of this Order shall constitute contempt of court, and the employee failing or refusing to work by October 9, 1970, without justifiable cause, shall immediately be replaced by PAL, and may not be reinstated without prior Court order and on justifiable grounds."

On October 10, 1970, Judge Paredes, having been informed that the strikes had not been called off, issued another order directing the strikers to lift their pickets and return to work and explaining that his order of October 7, 1970 partook of the nature of a mandatory injunction under the doctrine laid down in Philippine Association of Free Labor Unions (PAFLU) vs. Hon. Joaquin M. Salvador, et al., (L-29471 and L-29487, September 28, 1968).

The strike, however, continued until the industrial court en banc denied, on October 19, 1970, ALPAP's motion for reconsideration of the said orders.

On October 22, 1970, the strikers returned to work, except (according to the PAL) two pilots, one of them being Felix C. Gaston who allegedly refused to take the flights assigned to him. Due to his refusal, among other reasons, PAL terminated Gaston's services on October 27, 1970. His dismissal was reported to the industrial court on October 29, 1970. Thereafter, the court a quo set the validity of Gaston's dismissal for hearing, but, on several occasions, he refused to submit his side before the hearing examiner, claiming that his case would be prosecuted through the proper forum at the proper time.

On November 24, 1970, the PAL filed an urgent ex parte motion with the industrial court to enjoin the members of ALPAP from proceeding with their intention to retire or resign en masse. On November 26, 1970, Judge Paredes issued an order commanding ALPAP members —

> "Not to strike or in any way cause any stoppage in the operation and service of PAL, under pain of dismissal and forfeiture of rights, and privileges accruing to their respective employments should they disregard this Order; and PAL is also ordered not to lockout any of such members and officers of ALPAP under pain of contempt and cancellation of its franchise."—
>
> ALPAP filed a motion for the reconsideration of the foregoing order claiming, among others, that it subjected them to involuntary servitude:
>
> > "It is crystal-clear that the disputed Order in effect compels the members of petitioner to work against their will. Stated differently, the members of petitioner association are being coerced or forced by the Trial Court to be in a state of slavery for the benefit of respondent corporation. In this regard, therefore, the Trial Court grossly violated a constitutional mandate which states:
> >
> > > 'No involuntary servitude in any form shall exist except as a punishment for crime whereof the party shall have been duly convicted.' (Article III, Section 1(13)).
>
> "The constitutional provision does not provide any condition as to the cause or causes of the unwillingness to work. Suffice it to say that an employee for whatever reason of his own, cannot be compelled and forced to work against his will."

The court a quo, however, denied the foregoing motion for reconsideration on December 11, 1970.

Just the same, on December 12, 1970, a substantial majority of the members of ALPAP staged a mass resignation and/or retirement from PAL:

> "In vigorous protest to your provocative harassment, unfair labor tactics, the contemptuous lockout of our co-members and your vicious and vindictive attitude towards labor most

exemplified by the illegal termination of the services of our President, Capt. Felix C. Gaston."

The mentioned individual letters of retirement/resignation were accepted by PAL on December 14, 1970, with the caveat that the pilots concerned will not be entitled to any benefit or privilege to which they may otherwise be entitled by reason of their employment with the PAL, as the pilots' acts constituted a violation of the November 26, 1970 order of the industrial court.

On December 28, 1970, Ben Hur Gomez, alleging that he was elected President of ALPAP by its members who did not join the mass resignation and retirement, filed a motion in Case 101-IPA (B) praying that he be allowed to represent the ALPAP (which was theretofore represented by Capt. Felix Gaston) because the pilots who retired or resigned from PAL ceased to be employees thereof and no longer have any interest in the subject-matter of the said case. This was later converted into a motion to intervene on February 9, 1971.

On September 1, 1971, Felix Gaston filed a motion for contempt against PAL stating that his dismissal from PAL on October 27, 1970 was without just cause and in violation of the Order of the industrial court dated October 7, 1970 as well as section 19 of C.A. 103. He prayed that he be reinstated.

On October 23, 1971, twenty-one pilots who filed their retirement from PAL filed a petition in the industrial court praying also that they be readmitted to PAL or, failing so, that they be allowed to retire with the benefits provided for under the PAL Retirement Plan or, if they are not yet eligible to retire under said Plan, that they be given separation pay. In their petition for reinstatement, said pilots (who were later joined by other pilots similarly situated) alleged, inter alia —

"1. That they are some of the employees of the respondent company and members of the petitioner union who resigned en masse or retired en masse from the respondent after having been led to believe in good faith by Capt. Felix Gaston who was then the uncontested president of the petitioner union and their counsel that such a mass

resignation or mass retirement was a valid exercise of their right to protest the dismissal of Capt. Gaston in connection with the certified dispute that was pending before the Court.

"2. That later on they came to know that such a mass resignation or mass retirement was enjoined by this Honorable Court 'under the pain of dismissal and forfeiting of rights and privileges accruing to their respective employment if they disregarded such order' of injunction.

"3. That they did not deliberately disregard such injunction order and if they failed to comply with it within a reasonable time, it was because they were made to believe and assured by their leader that such resignation or retirement was a lawful exercise of concerted action; that the full consequences of such act was not explained to them by counsel; and, in addition, they were told that those who returned to the company would be expelled from the union, and suffer the corresponding penalty.

x x x

ALPAP (Gomez) opposed the foregoing petitions. In this connection, the records disclose that on August 20, 1971, 89 of the pilots who retired en masse from PAL filed a complaint with the Court of First Instance of Manila in Case 15084 for the recovery of retirement benefits due them under the PAL Retirement Plan. The complaint was dismissed by the trial court on PAL's motion. The records, however, do not disclose the reason for the said dismissal.

On December 23, 1971, Judge Paredes issued an order deferring action on the motion to dismiss the petitions for reinstatement on the ground that the matters alleged in the said petitions would required the submission of proof. ALPAP (Gomez) filed a motion for reconsideration of this order but the same was denied by the industrial court en banc for being pro forma.

On February 1, 1972, ALPAP (Gaston) joined and consolidated the mentioned petitions for reinstatement. The same was opposed by both PAL and ALPAP (Gomez).

On March 24, 1972, ALPAP (Gomez) filed a motion to suspend the proceedings in Case 101-IPA(B) until the prejudicial question of who should prosecute the main case (Case 101-IPA) is resolved. On April 18, 1972, Judge Paredes issued an order deferring the hearing of the main case until this Court shall have decided L-33705, but allowing other matters, including the consolidated petition for reinstatement, to be heard.

On May 5, 1972, ALPAP (Gomez) filed another motion to suspend the hearing on the mentioned petition for reinstatement on the ground that this Court's decision in L-33705 should be awaited. ALPAP (Gaston) opposed that motion on the ground that the matter had already been denied twice and the order setting the case for hearing was merely interlocutory. On May 15, 1972, Judge Paredes denied the said motion to suspend the hearing on the petition for reinstatement "unless a countermanding Order is issued by a higher Court."

On May 18, 1972, ALPAP (Gomez) filed a motion for reconsideration of Judge Paredes' order, alleging that employee status of those who resigned or retired en masse was an issue in the mentioned Case 2939-MC the decision on which is still pending consideration before this Court in L-33705.

On June 19, 1972, the industrial court en banc passed a resolution reversing Judge Paredes' order on the ground that the question of the employee status of the pilots who were seeking reinstatement with PAL has already been raised squarely in Case 2939-MC and resolved by the said tribunal which found that the said pilots have already lost their employee status as a consequence of their resignations and/or retirements from PAL which had been duly accepted by the latter.

DISCUSSION

In its brief before this Court, ALPAP (Gaston) states that it does not question the recognition extended by PAL to ALPAP (Gomez) as the collective bargaining agent of all PAL pilots on active flight duty.

Neither does it dispute the assumption by ALPAP (Gomez) of the authority to manage and administer the collective bargaining agreement between ALPAP and PAL (which at any rate had expired on January 31, 1972) nor the right of ALPAP (Gomez) to negotiate and conclude any other collective bargaining agreement with PAL. What it disputes, however, is the authorization given by the industrial court to ALPAP (Gomez), in a certification proceeding to take over the corporate name, office and funds of ALPAP.

This Court has always stressed that a certification proceeding is not a litigation, in the sense in which this term is ordinarily understood, but an investigation of a non-adversary, fact finding character in which the Court of Industrial Relations plays the part of a disinterested investigator seeking merely to ascertain the desires of employees as to the matter of their representation (National Labor Union vs. Go Soc and Sons, 23 SCRA 436; Benguet Consolidated, Inc. vs. Bobok Lumber Jack Ass'n., L-11029, May 23, 1958; Bulakeña Restaurant and Caterer vs. C.I.R., 45 SCRA 95; LVN Pictures, Inc. vs. Philippine Musicians Guild (FFW) and C.I.R., 1 SCRA 132). Such being the nature of a certification proceeding, we find no cogent reason that should prevent the industrial court, in such a proceeding, from inquiring into and satisfying itself about matters which may be relevant and crucial, though seemingly beyond the purview of such a proceeding, to the complete realization of the well-known purposes of a certification case.

Such a situation may arise, as it did in the case at bar, where a group of pilots of a particular airline, allegedly anticipation their forced retirement or resignation on account of strained relations with the airline arising from unfulfilled economic demands, decided to adopt an amendment to their organization's constitution and by-laws in order to enable them to retain their membership standing therein even after the termination of their employment with the employer concerned. The industrial court definitely should be allowed ample discretion to secure a disclosure of circumstances which will enable it to act fairly in a certification case.

This Court nonetheless finds, after a close and dispassionate study of the facts on record, that the industrial court's conclusion, that the mentioned amendment to the ALPAP constitution and by-laws is

illegal (a) because it was not adopted in accordance with the procedure prescribed and (b) because members of a labor organization cannot adopt an amendment to their fundamental charter so as to include non-employees (of PAL) as members, is erroneous.

We have made a careful examination of the records of L-33705 and we find the adoption of the resolution introducing the questioned amendment to be in substantial compliance with the ALPAP constitution and by-laws. Indeed, there is no refutation of the fact that 221 out of the 270 members of ALPAP did cast their votes in favor of the said amendment on October 30, 1970 at the ALPAP general membership meeting.

This Court cannot likewise subscribe to the restrictive interpretation made by the court below of the term "labor organization," which Section 2(e) of R.A. 875 defines as "any union or association of employees which exists, in whole or in part, for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment." The absence of the condition which the court below would attach to the statutory concept of a labor organization, as being limited to the employees of a particular employer, is quite evident from the law. The emphasis of the Industrial Peace Act is clearly on the purposes for which a union or association of employees is established rather than that membership therein should be limited only to the employees of a particular employer. Trite to say, under Section 2(h) of R.A. 875 "representative" is defined as including "a legitimate labor organization or any officer or agent of such organization, whether or not employed by the employer or employee whom he represents." It cannot be overemphasized likewise that a labor dispute can exist "regardless of whether the disputants stand in the proximate relation of employer and employee." (Section 2(j), R.A. 875).

There is, furthermore, nothing in the constitution and by-laws of ALPAP which indubitably restricts membership therein to PAL pilots alone.[1] Although according to ALPAP (Gomez there has never been an instance when a non-PAL pilot became a member of ALPAP, the complete lack of any such precondition for ALPAP membership cannot but be interpreted as an unmistakable authority for the

association to accept pilots into its fold though they may not be under PAL's employ.

The fundamental assumptions relied upon by the industrial court as bases for authorizing ALPAP (Gomez) to take over the office and funds of ALPAP being, in this Court's opinion, erroneous, and, in the absence of any serious dispute that on December 18-22, 1970 Felix C. Gaston, and four other pilots, were elected by the required majority of ALPAP members as officers of their association, this Court hereby rules that the mentioned authorization to ALPAP (Gomez) to take over the office, funds and name of ALPAP was done with grave abuse of discretion.

Moreover, this Court cannot hold as valid and binding the election of Ben Hur Gomez as President of ALPAP. He was elected at a meeting of only 45 ALPAP members called just one day after the election of Felix C. Gaston as President of ALPAP who, as shown, received a majority of 180 votes out of a total membership of 270. Under the provisions of section 4, article III of the Constitution and By-Laws of ALPAP, duly elected officers of that association shall remain in office for at least one year:

> "The term of office of the officers of the Association shall start on the first day of the fiscal year of the Association. It shall continue for one year or until they are reelected or until their successors have been elected or appointed and takes office in accordance with the Constitution and by-laws."

While this Court considers the ruling of the court below, on the matter of who has the exclusive rights to the office, funds and name of ALPAP, as having been erroneously made, we cannot hold, however, that those belonging to the group of ALPAP (Gomez) do not possess any right at all over the office, funds and name of ALPAP of which they are also members.

In our opinion, it is perfectly within the powers and prerogatives of a labor organization, through its duly elected officers, to authorize a segment of that organization to bargain collectively with a particular employer, particularly where those constituting the segment share a common and distinguishable interest, apart from the rest of their

fellow union members, on matters that directly affect the terms and conditions of their particular employment. As the circumstances pertinent to the case at bar presently stand, ALPAP (Gaston) has extended recognition to ALPAP (Gomez) to enter and conclude collective bargaining contracts with PAL. Having given ALPAP (Gomez) this authority, it would be clearly unreasonable on the part of ALPAP (Gaston) to disallow the former a certain use of the office, funds and name of ALPAP when such use is necessary or would be required to enable ALPAP (Gomez) to exercise, in a proper manner, its delegated authority to bargain collectively with PAL. Clearly, an intelligently considered adjustment of grievances and integration of the diverse and varying interests that not infrequently and, often, unavoidably permeate the membership of a labor organization, will go a long way, in achieving peace and harmony within the ranks of ALPAP. Of course, in the eventuality that the pilots presently employed by PAL and who subscribe to the leadership of Ben Hur Gomez should consider it to their better interest to have their own separate office, name and union funds, nothing can prevent them from setting up a separate labor union. In that eventuality, whatever vested rights, interest or participation they may have in the assets, including cash funds, of ALPAP as a result of their membership therein should properly be liquidated in favor of such withdrawing members of the association.

On the matter of whether the industrial court also abuse its authority for allowing ALPAP (Gomez) to appropriate the ALPAP name, it does not appear that the herein petitioner has shown below any exclusive franchise or right to the use of that name Hence, there is no proper basis for correcting the action taken by the court below on this regard.

L-35206 – The threshold issue posed in L-35206 is whether the Court of Industrial Relations acted without jurisdiction and with grave abuse of discretion in promulgating the resolution dated June 19, 1972 suspending hearings on the mentioned petition for reinstatement until this Court shall have decided L-33705.

We find no merit to the charge made.

While it is correct, as submitted by ALPAP (Gaston), that in the 1971 case of Philippine Federation of Petroleum Workers (PFPW) vs. CIR

(37 SCRA 716) this Court held that in a certified labor dispute all issues involved in the same should be determined in the case where the certified dispute was docketed and that the parties should not be permitted to isolate other germane issues or demands and reserve them for determination in the other cases pending before other branches of the industrial court, non-compliance with this rule is at best an error in procedure, rather than of jurisdiction, which is not beyond the power of this Court to review where sufficient reasons exists, a situation not obtaining in the case at bar.

After a thoroughgoing study of the records of these two consolidated petitions, this Court finds that the matter of the reinstatement of the pilots who retired or resigned from PAL was ventilated fully and adequately in the certification case in all its substantive aspects, including the allegation of the herein petitioners that they were merely led to believe in good faith that in retiring or resigning from PAL they were simply exercising their rights to engage in concerted activity. In the light of the circumstances thus found below, it can be safely concluded that the mass retirement and resignation action of the herein petitioners was intentionally planned to abort the effects of the October 7, 10 and 19, 1970 return-to-work orders of the industrial court (which they, in fact, ignored for more than a week) by placing themselves beyond the jurisdictional control of the said court through the umbrella of the constitutional prohibition against involuntary servitude, thereby enabling them to pursue their main pressure objective of grounding most, if not all, PAL flight operations. Clearly, the powers given to the industrial court in a certified labor dispute will be meaningless and useless to pursue where its jurisdiction cannot operate.

We cannot consequently disagree with the court a quo when it concluded that the actuations of the herein petitioners after they retired and resigned en masse - their retrieval of deposits and other funds from the ALPAP Cooperative Credit Union on the ground that they have already retired or resigned, their employment with another airline, the filing of a civil suit for the recovery of their retirement pay where they invoked the provision against involuntary servitude to obtain payment thereof, and their repeated manifestations before the industrial court that their retirement and resignation were not sham, but voluntary and intentional - are, in the aggregate, indubitable

indications that the said pilots did retire/resign from PAL with full awareness of the likely consequences of their acts. Their protestations of good faith, after nearly a year of underscoring the fact that they were no longer employed with PAL, cannot but appear to a reasonable mind as a late and regrettable ratiocination.

Parenthetically, contrary to ALPAP (Gaston)'s argument that the pilots' retirement/resignation was a legitimate concerted activity, citing Section 2(1) of the Industrial Peace Act which defines "strike" as "any temporary stoppage of work by the concerted action of employees as a result of an industrial dispute," it is worthwhile to observe that as the law defines it, a strike means only a "temporary stoppage of work." What the mentioned pilots did, however, cannot be considered, in the opinion of this Court, as mere "temporary stoppage of work." What they contemplated was evidently a permanent cut-off of employment relationship with their erstwhile employer, the Philippine Air Lines. In any event, the dispute below having been certified as existing in an industry indispensable to the national interest, the said pilots' rank disregard for the compulsory orders of the industrial court and their daring and calculating venture to disengage themselves from that court's jurisdiction, for the obvious purpose of satisfying their narrow economic demands to the prejudice of the public interest, are evident badges of bad faith.

A legitimate concerted activity is a matter that cannot be used to circumvent judicial orders or be tossed around like a plaything. Definitely, neither employers nor employees should be allowed to make of judicial authority a now-you've-got-it-now-you-don't affair. The courts cannot hopefully effectuate and vindicate the sound policies of the Industrial Peace Act and all our labor laws if employees, particularly those who on account of their highly advanced technical background and relatively better life status are far above the general working class spectrum, will be permitted to defy and invoke the jurisdiction of the courts whenever the alternative chosen will serve to feather their pure and simple economic demands.

ACCORDINGLY, in L-33705 the Resolution of the Court of Industrial Relations dated June 15, 1971 upholding the decision of Judge Joaquin M. Salvador dated May 29, 1971 is hereby modified in accordance with the foregoing opinion. Felix C. Gaston or whoever

may be the incumbent President of ALPAP is hereby ordered to give to any member withdrawing his membership from ALPAP whatever right, interest or participation such member may have in the assets, including cash funds, of ALPAP as a result of his membership in that association.

In L-35206, the petition assailing the resolution of the Court of Industrial Relations dated June 19, 1972, is hereby dismissed for lack of merit insofar as the petitioners' allegations of their right to reinstatement with PAL is concerned. With reference to the alternative action, re: payment of their claims for retirement or separation pay, the Secretary of Labor, in accordance with the applicable procedure prescribed by law, is hereby ordered to determine whether such claim is in order, particularly in view of the caveat made by PAL, in accepting the petitioners' individual letters of retirement/resignation, that said petitioners shall not be entitled to any benefit or privilege to which they may otherwise be entitled by reason of their employment with PAL as the former's acts constituted a violation of the order of the industrial court dated November 26, 1970.

Without costs in both instances.

Barredo, Makasiar, Antonio, Muñoz Palma, Concepcion Jr., and Martin, *JJ.*, concur.
Aquino, *J.*, took no part.

---

[1] Section 2(a), Article II of the ALPAP Constitution and By-Laws provides: "Any person of lawful age and good moral character who serves as an air line pilot, i.e., first pilot or captain, co-pilot or first officer, reserve pilot or reserve captain, or has served in these capacities in an air line transportation company, shall be eligible for membership in the Association in accordance with the stipulations in this Section and elsewhere in the Constitution and by-laws."

SEPARATE OPINIONS

TEEHANKEE, J., concurring:

In L-33705, a certification proceeding, I concur with the ruling[1] that there is nothing in the law which supports respondent court's restrictive interpretation that would limit membership in a labor organization to the employees of a particular employer, (for such an archaic view would be practically a death blow to the cause of unionism and would fragment unions into as many employers that there may be); and that specifically in the case of ALPAP (Air Line Pilots Association of the Philippines) there is nothing in its Constitution and by-laws that would restrict its membership to Philippine Air Lines, Inc. (PAL) pilots alone. (Obviously, the organizational set up was for ALPAP as a union to be composed of all airline pilots in the Philippines regardless of employer, patterned after the ALPAP (Air Line Pilots Association) in the United States which has a reputed membership of 46,000 with locals established by the members at their respective companies of employment).

The Court therefore properly upheld the election of the Gaston faction by a clear majority of the ALPAP membership (221 out of 270) as against the Gomez faction of 45 members; recognized Gaston's election as president of ALPAP as against the rump election of Gomez to the same position; and ruled out respondent court's action of authorizing the Gomez faction to take over the office, funds and name of ALPAP as a grave abuse of discretion and a nullity.

Of course, only the pilots actually in the employ of the PAL to the exclusion of those who had resigned or retired or otherwise been separated from its employment could take part in the PAL certification election. Under normal circumstances, the ALPAP as the duly organized labor union (composed of both factions) would manage and administer the collective bargaining agreement arrived at between employer and employees.

But this did not hold true in the present case, since in effect the Gomez faction consisting of pilots who continued in the employ of PAL and did not follow the action of the majority composing the Gaston faction of resigning and retiring en masse from their employment separated themselves from ALPAP and were granted separate recognition by PAL as the ALPAP (Gomez) faction constituting the exclusive collective bargaining representation for the pilots who continued in its employ. The original union ALPAP as headed by Gaston on concedes this and makes it quite clear in its brief that it does not question the recognition extended by PAL to the Gomez faction nor the latter's right to manage and administer the collective bargaining agreement and to negotiate and conclude any other collective bargaining agreement with PAL.

The actual dispute was thus reduced to whether the Gomez faction in separating themselves from ALPAP as headed by Gaston could take over and appropriate the corporate name, office and funds of ALPAP, as authorized by respondent court.

Such take-over or appropriation of ALPAP by the Gomez faction could not be validly done nor authorized by respondent court, as now ruled by this Court. But since ALPAP does recognize the right of the Gomez faction to separate and secede from ALPAP and for the members of the Gomez faction composed of pilots who have remained in the employ of PAL to form their own union, the Court's judgment has ordered ALPAP as headed by Gaston as the recognized president thereof or his duly elected successor to give to any withdrawing member, i.e. the members of the Gomez faction "whatever right, interest or participation such member may have in the assets, including cash funds of ALPAP as a result of his membership in that association."

I take this to mean that ALPAP is thereby ordered to liquidate the membership of each withdrawing member (although ALPAP is a non-stock association) and give him the equivalent of the net book value in cash of his aliquot share in the net assets of ALPAP as of the date of withdrawal de facto of the Gomez faction which may be fixed as December 23, 1970, the date when Ben Hur Gomez was elected as president of his faction by ALPAP members who did no join the mass resignation or retirement. I believe that in fairness the equivalent

value of any use made by the Gomez faction of the ALPAP office and funds from and after their date of withdrawal (which obviously was in and for their own exclusive interest and benefit) should in turn be offset against whatever may be determined to be the collective value of their ALPAP membership as of the date of their withdrawal on December 23, 1970.

In L-35206, the judgment penned by the Chief Justice rejects the petitioners-pilots' petition for readmission to PAL and their grounds in support thereof, inter alia, that they were led to believe in good faith by their union president Gaston and their counsel that their mass resignation and retirement were a valid exercise of their right to protest the dismissal of Gaston notwithstanding the pendency of their certified dispute in the industrial court, that they were assured by their leader that it was a lawful exercise of concerted action, that the full consequences of such act were not explained to them by counsel and that they had so acted under threat of expulsion from the union (which appear to be borne out by the fact that within the year after finally appreciating the full consequences of their ill-conceived mass protest retirement and resignation they sought to withdraw the same and petitioned for readmission in line with the return-to-work orders).

The principal ground for the Court's judgment cannot be faulted, to wit, that such action of mass retirement and resignation which plainly intended to abort the effects of the industrial court's return-to-work orders and to place petitioners-pilots beyond the court's jurisdictional control, after the President had certified the labor dispute thereto for compulsory arbitration in the public interest, could not be sanctioned nor tolerated since "clearly, the powers given to the industrial court in a certified labor dispute will be meaningless and useless to pursue where its jurisdiction cannot operate."[2]

Still, since the industrial court en banc set aside Judge Paredes' orders to receive proof on the pilots' petitions for reinstatement on the basis inter alia of the Gomez faction's contention that the prejudicial question of who of the two factions should prosecute the main case (the labor dispute) should first be resolved in the certification case pending as Case L-33705 before this Court[3] and since the matters raised in the petition for reinstatement were quite

serious and did required the submission of proof as held by Judge Paredes in the December 23, 1971 order, the question of merit of the pilots' rank-and-file petitions for reinstatement could perhaps have been deferred and likewise remanded to the National Labor Relations Commission — since after all their alternative prayer for payment of their claims for retirement or separation pay is being remanded to the National Labor Relations Commission "to determine whether such claim is in order" by receiving the proof of the parties — and such proof covers the very same matters raised as supporting grounds and reasons in the petitions for reinstatement.

After all, if the pilots duly substantiated with convincing proof their allegations in support of their petitions for reinstatement that they had been misled and/or coerced by their leader and counsel into presenting their mass retirement and resignation without the full consequences having been explained to them the pilots would be in the same situation of rank-and-file members of a union who engage in an illegal strike, in which case under this Court's liberal and compassionate doctrine, only the leaders (and those who actually resorted to violence which is of no application here) would receive the capital of dismissal — unless this Court were somehow to make an exception of the pilots and exclude them from the application of this established doctrine because "of their highly advanced technical background and relatively better life status — far above the general working class spectrum."[4]

Withal, the Court's decision requires the National Labor Relations Commission with reference to the pilots' alternative claims for retirement or separation pay "to determine whether such claim is in order, particularly in view of the caveat made by PAL, in accepting the petitioner's individual letters of retirement/resignation, that said petitioners shall not be entitled to any benefit or privilege to which they may otherwise be entitled by reason of their employment with PAL as the former's acts constituted a violation of the order of the industrial court dated November 26, 1970."

The said November 26, 1970 order commanded ALPAP members "not to strike or in any way cause any stoppage in the operation and service of PAL, under pain of dismissal and forfeiture of rights and privileges accruing to their respective employments should they

disregard this Order; and PAL is also ordered not to lockout any of such members and officers of ALPAP under pain of contempt and cancellation of its franchise."

I venture to suggest as a specific guideline[5] for the National Labor Relations Commission's consideration (in order to expedite settlement of the case and assuage the anxieties of petitioners and their families) that the pending question appears to be one of law, whose resolution would not be affected by the proof that may be submitted to the said commission upon remand of the case.

The question of law is: was it within the industrial court's power as provided in Judge Paredes' above-quoted order to order "forfeiture of rights and privileges accruing to their respective employments" should they disregard his return-to-work order? It should be noted that the PAL in accepting the letters of retirement/resignation made the caveat that the pilots concerned would forfeit any retirement benefit or privilege that they would otherwise be entitled to by reason of their employment with PAL, as their acts constituted a violation of the cited return-to-work order, thus indicating that were it not for such order, PAL would have no basis for imposing any forfeiture of earned retirement privileges since it was in turn accepting the pilots' retirement and resignation.

If the industrial court had no such power to order forfeiture of the pilots' retirement/resignation privileges and benefits for violation of its return to work order, then there would be no legal basis for the denial of such retirement privileges and benefits.

That the industrial court had such power is open to grave doubts. For disregard and violation of the return to work order, the industrial court could impose the capital penalty of dismissal from employment. True, the pilots carried out an ill-advised mass retirement/resignation to abort the effects of the return-to-work order but the effectiveness of the penalty of dismissal is borne out by the fact that within the year the pilots had come to realize and regret the futility of their act and were seeking readmission. Then again, the industrial Court had the power of contempt — it could have declared the mass retirement illegal as this Court has in fact so declared and used its coercive power of contempt under Rule 71, section 7 by

requiring imprisonment of the petitioners until they purged themselves of contempt by complying with the return-to-work order.

But to declare the forfeiture of retirement privileges and benefits which the petitioners had earned and would otherwise he entitled to by reason of their years of employment of PAL appears to be beyond the coercive as well as punitive powers of the industrial court — in the same way that is threatened cancellation of PAL's franchise as granted by Congress for violation of the lockout prohibition aspect of the same order was beyond its powers.

The end result, then, would be that assuming that petitioners had willfully violated the return-to-work order of November 26, 1970 and had not been misled into presenting their mass retirement/resignation, such violation could not legally result in a forfeiture of their retirement privileges and benefits as decreed in the order since such forfeiture was beyond the industrial court's power and authority. Their loss of employment and the denial of their readmission certainly constitute sufficient punishment and vindication of the court's authority. All the more so would such non-forfeiture of earned retirement privileges and benefits be in consonance with fairness and equity should the pilots duly establish the factual averments of their cited petition for readmission and for payment of their said privileges and benefits.

Fernando, *J.*, concurs.

TEEHANKEE, J., concurring:

[1] At page 14, decision.
[2] At page 17, decision.
[3] At page 11, decision.
[4] At page 18, decision.
[5] See also writer's suggested guidelines in his separate opinion in PCIB vs. Escolin, 56 SCRA 266, 405 (1974) and 67 SCRA 202, 204 (Sept. 30, 1975) re Resolution on motions for reconsideration.