SUPREME COURT
FIRST DIVISION

ALLIED BANKING CORPORATION,
***Petitioner*,**

-versus-

G.R. No. 116128
July 12, 1996

NATIONAL LABOR RELATIONS COMMISSION, HON. JOSE G. DE VERA, ALLIED BANKING EMPLOYEES UNION — NUBE, TOMAS GONZALO, CRISANTO BALISI, NORBERTO AGUJA, BENITO BARRERA, HERNANIE SISON, MAYNARD CUENCA, VICTOR M. ALVARES, INOCENCIO SALVADOR, LUISITO MENDOZA, ARTURO VILLANUEVA, PEDRO PASCUAL, TAGGERT ABASTILLAS, ALICIA ABILLE, NIDA ABUTAN, TONY ACIBAR, DAISY ADRIANO, ANDREA JOCELYN AGUDO, ERLINDA AGUS, SONNY ALAYON, NESTOR ALCARION, RAUL ALIGAEN, EDWIN AMORANTO, BUENERJES M. ANTE, LUISITO ARELLANO, CARLO ARRANZAMENDEZ, ALVIN ARROCO, JOSEFINA AVILLANOSA, SUSAN BALLESTERE, TEODORO BANATCILA, EDUARDO BANIS, NOEL BARCENAS, MAGTANGGOL BAWAL, RODRIGO BEGINO, BENJIE C.S. BETRAN,

VIRGILIO BRILLANTES, JOSE BUFI, APOLONIO BURLAZA, EDUARDO CABALU, REYNALDO CALAROZA, WALFRIDO CALCABIN, EDUARDO CALCES, LORENZO CALVELO, JR., EDUARDO CANIZARES, ROY CASIDO, ANGELITO CASTRO, SALLY CASTRO, ARTHUR CASTROGERES, EDNA CEOCO, SUSAN CHAN, ANNE CHUA, LETTY CHUA, RODALIA CHUA, CARLOS CHUNG, RASAURO CLERIGO, MARY ANN CO, DELIA CONDE, AVELINO CONDERO, MAXIMO CORNEJO, JR., CHARLIE CORPUZ, CYMBELINE CRUZ, JUDITH DE LA CRUZ, VENERANDO CUI, ADRIANO CUTINES, JR., ED DAGUMAN, MARIE PAZ DAGUMAN, EDUARDO DAYAO, JESUS DAYAO, WENCESLAO DIMO-OS, ROGELIO EDORA, LOLITA EL FANTE, ABELARDO EUGENIO, JAIME FERRER, REYNALDO FERRERI, ROMEO T. FLORENTINO, JOY R. FLORES, ROBERTINO FUCOY, BUENAVENTURA GABITAN, JOSE GACO, JR., RAUL GALSIM, RAUL GONZALES, OSCAR CORDULA, CARMELITA GULAPA, OPHELIA DE GUZMAN, ROGER HAO, BALAGTAS HERNANDEZ, GERARDO ILANO, ALAN DE JESUS, JAIME JIMENA, CONNIE DE JOYA, HECTOR JULIANO, ALFREDO LEGASPI, DANILO DE LEON, ARMANDO LIM, ANGELITA LOPEZ, ROEL LOPEZ, CAROL MABUGAT, ERWIN MACALINO, RAUL MACATANGAY, CATALINO MACLANG, MANUEL C. MADERAZO, REGINALD MALAPIT, MENARDO P. MALATE, GILBERT MANAOIS, TONY MANAOIS,

JAIME MANIPIS, EDGAR MARCELO, AMELITA MARCO, ABELARDO MARIANO, JANE MINA MARQUEZ, JULINO MARQUEZ, RUBEN MEDINA, ERNESTO MENDOZA, NORBEN MENDOZA, BELINDA MIRANDA, LUCILLE MONTILLA, MARY ANN MUEDA, LOURDES MUGAR, DINDO NEMIADA, RENE NG, EDGARDO NICASIO, RODEL NUNEZ, ROLANDO OCAMPO, IRENE OCOS, ALEX OLAES, JOSEFINA ONA, AMADO F. ONG, GERSON OZARAGA, ROSALEO PACIBE, ANGELINO PALAO, MARIO PAPA, ELIZABETH PARUNGGAO, LILIBETH PAYPON, ERNESTINA PELAEZ, ALFREDO DEL PILAR, ELPIDIO PINEDA, MA. LOURDES PLANA, BLESIDA POBLETE, REMEDIOS POLINTA, AGUSTIN, QUILLA, JOSEFINO RAMIREZ, ANA ROBERTA RAMOS, ALFREDO RAYMUNDO, ROWENA REBOSA, CRISPINA REMIGIO, EPITANIO REYES, JR., SONIA REYES, VICTORINO REYES, ANTONIO REQUEPO, TOMAS RUBIALES, ANGELITA SACLOLO, OSCAR SAGGE, ROMEO SALTING, NICANOR SAYSON, CARLOS SANCHEZ, DEXTER SANCHEZ, ELOIS SAN MATEO, ALBERT SANTIAGO, CARMEN DE LOS SANTOS, ROMEO SIMAN, HELEN T. SIY, NOEL SOLIS, GENESIS SORIANO, TERESITA SY, EVANGELINE SUALOG, JUANITO SULLERA, AMELOU TAN, EVELYN TAN, GENE TAN, NANCY TAN, ROSALINO P. TAN, EMILIO TARROSA, JR., EDUARDO TOLENTINO, RUFINO TRINIDAD, JR., ARACELI UY,

ALEXANDER VALENZUELA, PRISCILA VELARDE, REUEL VELARDE, AUDIE VELASCO, WINSTON VELASCO, LUISITO VENGCO, GRACE VICTORIA, IMELDA VILLAR, MA. CORAZON VILLEGAS, JOSE VILLAMOR, ESTRELLA VILLAREAL, MA. VERONICA VILLARICA, ABE VILLARINO, FE YAP, RAMON ZAFRA, MELY ABANO, ELLEN ABRIOL, GIL AJAS, VIRGILIO ALCORIZA, FRANCISCO AQUINO, AUDREY ANN ARMENDI, FILIPINAS BOLLER, ROZIELO CALIWAGAN, MARIE LIAN CEMBRANO, ZERALDA CHAN, MARY ANTONETTE CHU, VEDASTO DE CLARO, ARNOLD COLLANTES, REYNALDO CRISTAL, RAMON DIOLAZO, PROCESO DUJUNCO, ANTONIO ENDERIZ, FLORIAN ENRIQUEZ, ERNESTO ESBER, MARLENE GENEVIEVE ESQUIVEL, TITA FELIPE, EDILBERTO GALSIM, RIGOBERTO GARCIA, CLARO GANO, RAYMUNDO GANCIA, SYLVIA GUEVARRA, LAURO DE GUZMAN, ELENA JABSON, RUBY KUIZON, ENRIQUE LABUSON, ERNESTO LAOANG, EDUARDO TIAM LEE, AMADO LIM, SUSAN LIM, SHIRLEY LOCSIN, LEONARDO LULU, MERLE MACARUBBO, CECILIA MAGNO, TERESITA MAHERALNAGH, PERSEVERANDA MALLARI, MARIO MARQUEZ, JOYCE ELIZABETH MELENCIO, ROMEO MENDOZA, SEVERO MORIN, DANILO NATIVIDAD, JANELYN NELSON, MA. TERESA PAMA, RAMONITA RECUENCO, EDGARDO REGOSO, TEDDY REY,

EDITHA REYES, GEORGE REYES, MA. CECILIA RIVERA, LOURDES ROSALES, ROBERTO SABAULAN, MANUEL SAN AGUSTIN, MA. CLEOFE SANCHEZ, MARIO SAN GREGORIO, ARTURO SANTERVA, CARMELITO SANTOS, MEYNARDO SANTOS, LORETA SIA, MA. TERESA SORIANO, LEOPOLDO TACUGUE, NOEL TEANO, TEDDY TUPAS, NILO URBINA, MARY ANN UY, CYNTHIA VICTORIA, VICENTE VIDAL, ERNESTO YAP, RUBEN ZARANDIN, TERESITA ALHAMBRA, EDMUND ARRIOLA, KELLY CALUNGSUD, MA. LAARNI CHING, ELENITA DE CASTRO, FLORINDA REGOSO, LEOVINO REYES, RICARDO SALVADOR, NICANOR SAYSON, and GRACE VENERACION,

Respondents.

x----------x

ROLANDO G. OCAMPO, ROWENA C. REBOSA, DEXTER C. SANCHEZ, ELPIDIO PINEDA, BALAGTAS HERNANDEZ, ALAN DE JESUS, REYNALDO FERRER, ANGELITO CASTRO, JOSE VILLAMOR, JR., EVANGELINE SUALOG, LILIBETH PAYPON, GILBERT MANAWIS, SALLY CASTRO, JOSE BUFI, IMELDA VILAR, JANE MINA MARQUEZ, SUSAN CHAM, CONNIE DE JOYA, TERESITA SY, SONIA REYES, EVELYN TAN, AMELITA MARCO, HECTOR JULIANO, JUDITH DELA CRUZ, APOLONIO BURLAZA, ROGELIO EDORA, JAIME MANIPIS, PRISCILA VELARDE, LOURDES MUGAR, RAUL GONZALES,

BLESILDA POBLETE, ANTONIO RAQUEPO, MARIO PAPA, TONY ACIBAR, VIRGILIO BRILLANTES, TONY MANAOIS, ELOISA SAN MATEO, MA. LOURDES PLANA, ANGELITA LOPEZ, ARTHUR CASTROGERES, EDGARDO NICASIO, DAISY ADRIANO, JESUS DAYAO, CARMEN DELOS SANTOS, FE YAP, RUBEN MEDINA, ERNESTO MENDOZA, EDUARDO CALCES, LUISITO ARELLANO, JOSE GACO, JR., TEODORO BANATICLA, ROEL LOPEZ, DANILO DE LEON, NOEL SOLIS, GENESIS SORIANO, RUFINO TRINIDAD, JR., VICTORINO REYES, MAXIMINO CORNEJO, JR., ALVIN ARROCO, ERWIN MACALINO, TOMAS RUBIALES, ANGELINO PALAO, EDNA CEOCO, JAIME FERRER, AUDIE VELASCO, ANGELITA SACLOLO, CAROL RAMOS, AVELINO CORDERO, EPIFANO REYES, JR., OPHELIA DE GUZMAN, IRENE OCOS, REGINALD MALAPIT, JOSEFINO RAMIREZ, ABELARDO MARIANO, RAMON ZARFA, DELIA CONDE, ANNE CHUA, NENA NG, ESTRELLA VILLAREAL, LETTY CHUA, ANA ROBERTA RAMOS, EDUARDO CABALES, RODRIGO BEGINO, JAIME GIMENA, GENE TAN, CARLOS CHUNG, WENCESLAO DIMO-OS, LOLITA ELFANTE, ALICIA ABILLE, ROY CASIDO, LUCILLE MONTILLA, ALFREDO RAYMUNDO, DINDO NEMIADA, GERARDO ILANO, CARLOS SANCHEZ, AGUSTIN QUILLA, CHARLIE CORPUZ, WINSTON VELASCO, RODALIA CHUA, ALEXANDER VALENZUELA, EDGAR

MARCELO, ALBERT SANTIAGO, RAUL GALSIM, CARLO ARRANZAMENDEZ, JOSEFINA ONA, CARMELITA GULAPA, ARACELI UY, CRISPINA REMIGIO, BELINDA MIRANDA, GRACE VICTORIA, ROMEO SALTING, EDWIN AMORANTO, ROGER HAO, MA. VERONICA VILLARICA, ALFREDO DEL PILAR, BUENAVENTURA GABITAN, LUISITO VENGCO, HERSON OZARAGA, SUSAN BALLESTEROS, RAMONITA RECUENCO, ABE VILLARINO, RODEL NUNEZ, ALFRED LEGASPI, RAUL MACATANGAY, REYNALDO CALAROZA, ADRIANO CUTINES, JR., EDGARDO DAYAO, LORENZO CALVELO, JR., NESTOR ALCARION, EDUARDO CANIZARES, REFUNIO MARQUEZ, NIDA ABUTAN, RAMON DIOLAZO, NORBEN MENDOZA, ROMEO SIMAN, CYMBELINE CRUZ, ROSALEO PACIBE, ABELARDO EUGENIO, MARY ANN CO, ANDREA JOCELYN AGUDO, EMILIO TARROSA, JR., TAGGERT ABASTILLAS, RAUL ALIGAEN, CAROL MABUGAT, ERNESTINA PELAEZ, ROBERTINO FUCOY, MARY ANN MUEDA, CATALINO MACLANG, REMEDIOS POLINTAN, NICANOR SAYSON, NANCY TAN, JUANITO SULLERA, AMELOU TAN, SONNY ALAYON, WALFRIDO CALCABIN, VENERANDO CUI, OSCAR GORDULA, ROSAURO CLERIGO, MAGTANGGOL BAWAL, HELEN SIY, ELIZABETH PARUNGAO, REUEL VELARDE, NOEL BARCENAS,

Petitioners,

-versus- **G.R. No. 116461**
July 12, 1996

NATIONAL LABOR RELATIONS COMMISSION and ALLIED BANKING CORPORATION,

Respondents.

x----------x

D E C I S I O N

HERMOSISIMA, JR., *J.*:

For review in these consolidated Petitions is the Decision, dated May 20, 1994, of the National Labor Relations Commission as well as its Order, dated July 8, 1994, in NLRC NCR Case No. 004005-92 and NLRC NCR Case No. 00316-92.

In its petition,[1] the Bank questions the latter portion of the decision of the National Labor Relations Commission (NLRC) wherein it remanded to the Labor Arbiter the issue of whether or not the forty-one (41) respondents are entitled to back wages corresponding to the period that they should have been reinstated since 1986, pursuant to the guideline stated in our Resolution, dated May 4, 1988.

Respondents, on the other hand, contend in their petition[2] that the NLRC gravely abused its discretion in affirming the validity of their dismissal by the Bank.

The dispute between petitioner and respondent Union started when their collective bargaining agreement which was to expire on June 30, 1984 came up for renewal. They failed to reach an amicable settlement particularly on the wage increase issue. Respondent Union thereupon filed a notice of strike with the Bureau of Labor Relations.

On December 16, 1984, then Minister of Labor and Employment, Blas Ople assumed jurisdiction over the dispute pursuant to Article 263 (g) of the Labor Code of the Philippines, as amended. The orders enjoined the Union from declaring a strike and the management from effecting a lock out.[3] The orders notwithstanding, respondent Union nevertheless filed on December 20, 1984, a report on the results of the strike vote that it earlier conducted. On January 3, 1985, respondent Union staged a strike upon the Union president's contention that the Labor Minister's assumption order was a mere scrap of paper.

On January 4, 1985, petitioner filed with the Ministry of Labor and Employment a Manifestation and Urgent Motion praying for a return-to-work order. On January 6, 1985. Minister Ople granted the motion and issued a return-to-work order which included a P1,000.00 grant per employee chargeable to future CBA benefits.

In an Order, issued on January 18, 1985, Minister Ople directed the parties to continue negotiations until January 31, 1985; otherwise, if no compromise agreement is reached, he will personally resolve the bargaining deadlock.

The parties failed to break the deadlock and so, Minister Ople issued an Order, dated January 31, 1985, directing them to incorporate in their collective agreement the awards granted.[4]

On February 11, 1985, "certain members of the Union resumed the strike and, on the following day, acts of violence were committed resulting in the filing of criminal charges against some of the strikers."[5] Petitioner identified these "certain members of the Union," numbering 271, the respondents included.

Petitioner, through notices published in the Bulletin Today, the Times Journal, and the Daily Express, directed the striking employees to return to work not later than 1:00 p.m. of February 13, 1985.

In spite of these notices, respondents failed to report for work on the stated deadline. Respondents explained that the resumption of their picketing activities was brought about by their belief that Minister

Ople's decision, dated January 31, 1985, was not based on justice, equity and reason.

Private respondents' posture of intransigence caused petitioner to issue notices of their termination.

Meeting the Union demands halfway, Minister Ople, on March 7, 1985, issued a Resolution modifying his January 31, 1985 Order and so the union lifted its picket lines and notified petitioner, on March 11, 1985, that the striking employees were returning back to work. Petitioner refused to accept them back on the ground that the strikers have already been dismissed for abandonment of work when they failed to obey the assumption order.

In order to quell further dispute, Minister Ople, on June 5, 1985, issued an Order which directed the bank to reinstate provisionally all striking workers except (a) those who have already accepted their separation pay; (b) officers of the union; and (c) those with pending criminal charges.

The Union then filed with us a petition for *certiorari*, with a prayer for the issuance of a preliminary mandatory injunction, docketed as G.R. No. 71239. In the said petition, the union asked that the June 5, 1985 Order of Minister Ople be modified to likewise direct the reinstatement of all union officers, employees with pending criminal cases and employees who have received their separation pay with full back wages, emergency cost of living allowance (ECOLA) and employee benefits counted from March 8, 1985 until actually reinstated. In a Resolution, dated June 18, 1986, we remanded the petition to the Ministry of Labor and Employment, with the instruction to resolve all pending factual and legal issues relative to the petition.

On August 29, 1986, Minister Augusto Sanchez, the successor of Minister Ople, modified the last Order of the latter by ordering the reinstatement of all striking employees, except those who have already accepted their separation pay. The bank, as a consequence, filed a petition with the Supreme Court, docketed as G.R. No. 75749, to nullify the aforesaid Order.

In amplification of our Resolution of September 15, 1986, we issued in G.R. No. 75749 the following Resolution, dated May 4, 1988:

> "In a resolution dated September 15, 1986 in G.R. No. 75749, the Court issued 'a Temporary Restraining Order' enjoining enforcement of the August 29, 1986 order of the Minister of Labor and Employment only insofar as it directs the payment of back wages, allowances, and other benefits due to the private respondents effective March 11, 1985 until their actual reinstatement. Considering, however, the financial plight of some of the private respondent, the Court further Resolved to order the petitioner to advance the equivalent of two (2) months salary to each of the private respondents entitled to reinstatement under the MOLE order, said amount to be repaid to the petitioner or charged to accumulated back wages depending on the final outcome of this case' (p. 64, Rollo). A motion for clarification of this Resolution filed by the Bank was denied.
>
> In view of the above-mentioned resolution, Minister Sanchez' order to reinstate back to work all striking employees except those who have accepted separation pay was ordered implemented."[6]

It appears that the problem of reinstating striking employees except those who had accepted separation pay was reduced a bit when 71 of 112 affected employees were additionally reinstated. Thus, only 41 among the individual respondents were not reinstated.

In our Resolution dated May 4, 1988 we observed that:

> "The individual private respondents in G.R. No. 75749 have filed motions to cite in contempt the Bank for violation of the Court's Resolution ordering the implementation of the reinstatement order of Minister Sanchez. They alleged that they were 'forced to file the Motions to expose and protest the unabating display of bad faith on the part of the Bank in effecting their reinstatement. (p. 400, Rollo in 74749)."

We did not act favorably upon private respondents' "motion to cite in contempt the bank for violation of the court's Resolution ordering the implementation of the reinstatement order of Minister Sanchez." Instead, we dismissed said petitions of the union and the individual respondents in G.R. No. 71239, and the Bank's petition in G.R. No. 71239, and in G.R. No. 75749; and remanded them to the Department of Labor and Employment and its pertinent agencies for further proceedings as stated in our resolution, to wit:

> "A thorough review of the voluminous records of these two petitions shows that unresolved factual issues prevent a final solution to the individual respondents' and the Bank's problems.
>
> First, whether or not the strikes staged by the Union and the individual respondents are legal remains unresolved. This question has been pending before the Arbitration Branch of the National Labor Relations Commission (NLRC) even before the filing of the two petitions.
>
> In his order dated August 29, 1986, Minister Sanchez ordered reinstatement pending the final outcome of the petition initiated by the Bank to declare the strike illegal. The reinstatement is, therefore, provisional. A permanent reinstatement will depend on the legality or illegality of the strike.
>
> Second, the Department of Labor and Employment (DOLE) or the NLRC must also look into the roles played by the individual respondents should the strike be declared illegal.
>
> Third, in this Court's June 18, 1986 resolution, the respondent Minister was ordered to resolve (sic) the certain factual questions, to wit:
>
> > There are various factual issues which must first be resolved. Counsel for the petitioners admits that the petitioners are not authorized by the Allied Bank Employees Union nor NUBE to speak for the Union or the bargaining unit. Neither have the petitioners any

authority to file a case in behalf of the Union officers and certain separated employees whom they want this Court to order reinstated. In fact, there are statements filed by individual petitioners who manifest that they did not authorize the petition to be filed in their names. Counsel for the petitioners failed to clarify at the June 18, 1986 hearing how many of the petitioners he really represents, how many workers have received separation pay, and how many of these workers have authorized the filling of a case in their behalf. Counsels for the parties have given this Court conflicting data on positions of terminated personnel allegedly being filled by new employees and various other factual matters necessitating the presentation of evidence. It is also rather odd why a petitioner union affiliated with NUBE and the Trade Union Congress of the Philippines (TUCP) or its members should be represented in this case by the legal counsel of a rival labor federation, the Kilusang Mayo Uno (KMU).

There is at present pending with the respondent a supplemental motion for partial reconsideration of the order now challenged in this petition. Counsel for the petitioner admits that they have not moved in the premises and have not asked the present Minister of the MOLE whether or not he would reconsider the questioned order issued by his predecessor. Both parties are agreed that conciliation proceedings have not terminated and both expressed a willingness to continue the proceedings. The issue of whether or not the strike which commenced on February 11, 1985 is legal remains pending determination by NLRC and calls for the presentation of the evidence. The status of the pending criminal case is likewise not clear. The Assistant Solicitor General who represented MOLE informed the Court that the respondent Minister had to suspend action on the various matter pending before him because the petitioners decided to file this petition before allowing the administrative process to make the initial determination (p. 420, Rollo in G.R. No. 71239).

These questions have not been resolved to date.

And fourth, there are likewise factual matters that have cropped up in G.R. No. 75749 with regards (sic) to which the court has neither the means or (sic) the time to look into.

The appropriate agencies of DOLE should conduct hearings on the contention of the bank that it is now impossible to reinstate the remaining 41 respondents inspite (sic) of its alleged bona fide attempts to find equivalent positions for them and on the counter-contentions of the individual respondents that there was discrimination in the reinstatement of their companions, that the contractual employees were hired to displace them, that the bank employed harassment tactics, and that their dismissal was summary, arbitrary, and malicious in gross violation of this Court's twin resolutions on September 17 and 29, 1986.

All the unresolved factual questions call for the presentation of evidence before the appropriate administrative agency. They cannot be resolved through pleadings or oral arguments before the Court."[7]

x x x

In view of this development, the respondents, including the forty-one (41) individual respondents, led by Rolando Ocampo, Rowena Rebosa and Alfredo del Pilar, were not reinstated by the bank.

Subsequently, arbitration of the Bank's petition continued with the issues confined to these matters, viz:

"(a) whether or not the subject strikes, i.e., one that took place on January 3 and 4, 1985 to March 11, 1985, were illegal; (b) whether or not anyone of the individual respondents committed illegal acts during the duration of the strikes; (c) whether or not the individual respondents were illegally dismissed and/or locked out; and (d) whether or not the respondent-employees are entitled to moral and exemplary damages."[8]

After weighing the arguments of both parties, the Arbiter ruled that:

> "There is no dispute that under Art. 263, paragraph (g) of the Labor code, as amended, the assumption by the Secretary of Labor and Employment over a labor dispute has the automatic effect of enjoining any intended or impending strike or lockout. When then Minister Blas Ople assumed jurisdiction over the labor dispute between the bank and the union on December 19, 1984, by operation of law, the intended strike of the respondent union was automatically enjoined. The union cannot feign ignorance of this legal mandate. It is the law and compliance therewith cannot be excused on the more convenient excuse of ignorance. Besides, the order of December 19, 1984 clearly reiterated such legal injunction such that the respondent union may not now be allowed to assert that it did not violate any law or order of the lawful authorities when it staged the strike on January 3 and 4, 1985.

An assumption and/or certification order of the Secretary of Labor automatically results in a return-to-work of all striking workers, whether or not a corresponding order has been issued by the Secretary of Labor. Once an assumption/certification order is issued strikers are enjoined, or if one has already taken place, all strikers shall immediately return to work. A strike that is undertaken despite the issuance by the Secretary of Labor of an assumption or certification order becomes a prohibited activity and thus illegal.

Admittedly the respondent union went on strike on January 3 and 4, 1985, barely sixteen (16) days after then Minister of Labor and Employment Blas Ople assumed jurisdiction. And while the labor dispute between the parties was still pending before Minister Blas Ople, another strike was staged on February 11, 1985 which continued up to March 11, 1985. Being in violation of the provisions of Art. 263, paragraph (g) of the Labor Code, as amended, as well as the assumption order of December 19, 1984, both strikes are, therefore, illegal and consequently, all union officers, namely, Tomas Gonzalo, Crisanto Balisi, Norberto Aguja, Benito Barrera, Hernanie Sison, Meynard Cuenca, Victor Alvares, Inocencio Salvador, Luisito

Mendoza, Arturo Villanueva, and Pedro Pascual, are declared to have lost their employment status.

This Branch does not agree with the respondents' contention that the strike on January 3 and 4, 1985 was already amicably settled and/or condoned by the bank when it agreed to accept back to work the striking workers. The bank merely complied with the return-to-work order of Minister Blas Ople issued on January 6, 1985 but this did not preclude the bank from questioning the legality or illegality of the said strike.

Nor can this Branch accede to the respondents' assertion that they are merely acting in self-defense when they resumed their concerted activity on February 11, 1985 allegedly on account of unfair labor practices committed by the bank's representatives and agents. Regardless of their motives, or the validity of their claims, the striking workers must cease and/or desist from any and all acts that tend to or undermine the authority of Secretary of Labor and Employment once an assumption order is issued. They cannot, for instance, ignore return-to-work orders, citing unfair labor practices on the part of the company, to justify their actions."[9]

The Labor Arbiter qualified that, under Article 264 (a) of the Labor Code, the individual respondents other than the union officers can be subjected to dismissal only in cases where they knowingly participated in the commission of illegal acts during the strike. Finding that all the individual respondents who were not officers of the union did not commit the illegal acts complained of, the Labor Arbiter held that they cannot validly be declared to have lost their employment status.

With regard to the question of whether or not the Bank validly dismissed the respondents for their failure to obey the return-to-work notices, the Labor Arbiter held:

> "Implicit in the petitioner's argument is that the individual respondents by their failure to comply with the published return-to-work order are liable for abandonment of work. Abandonment as a ground for dismissal must be shown to be deliberate and that the employee involved has shown no more

> inclination to resume work. This is not true in the instant case. At the time they were terminated by the bank, the individual respondents were then on strike, and until the legality or illegality of the strike is resolved, the petitioner did not have any basis for terminating the individual respondents' services. Precisely, the primary reason why the respondents struck was rooted on their conviction that their economic demands that led to bargaining deadlock were justified. If the respondents through the strike have shown their eagerness in improving their employment situation, how could they now be held liable for abandonment. The grounds relied upon by the bank in terminating the individual respondents being non-existent, perforce such subject termination must be held to be without just and valid grounds, and consequently, the individual respondents are entitled to reinstatement with back wages from the time of their termination until their actual reinstatement."[10]

Hence, the Labor Arbiter's disposition of the case, viz:

> "WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered as follows:
>
> a) Declaring the strikes complained of as illegal and consequently, all union officers, namely, Tomas Gonzalo, Crisanto Balisi, Norberto Aguja, Benito Barrera, Harnanie Sison, Meynard Cuenca, Victor Alvarez, Inocencio Salvador, Luisito Mendoza, Arturo Villanueva, and Pedro Pascual, lost their employment status;
>
> b) Dismissing the petition to declare the strike illegal as against the other individual respondents;
>
> c) Declaring the dismissal of the abovenamed 163 counter-complainants as illegal and ordering the petitioner Allied Banking Corporation to pay their aggregate back wages and other computed benefits in the total sum of P5,049,692.73;

d) Ordering the petitioner Allied Banking Corporation to reinstate the forty-one (41) counter-complainants led by Rolando Ocampo, Rowena Rebosa and Alfredo del Pilar, to their former or substantially equivalent position with all the rights, privileges and benefits appertaining thereto including seniority, and to pay them their backwages and other computed benefits in the aggregate sum of P3,548,213.80 plus moral and exemplary damages in the aggregate amount of P615,000.00; and

e) Ordering the petitioner Allied Banking Corporation to pay attorney's fees in the amount of P921,290.65.[11]

On September 29, 1992, the forty-one (41) respondents who were ordered reinstated filed a "Motion to Issue Partial Writ of Execution." This was granted by the Labor Arbiter.

On September 30, 1992, petitioner appealed from the decision of the Labor Arbiter. Respondents, on the other hand, filed, on October 2, 1992, a partial appeal from the aforesaid decision of the Labor Arbiter praying that the decision be modified: (1) to reflect in the computation of back wages the actual basic monthly rates of the individual union members, including the other employees' benefits; (2) to order the payment of actual, moral, and exemplary damages, including attorney's fees to all 163 dismissed employees; (3) to order the reinstatement of all dismissed 163 employees; and (4) to include "Innocence Salvador "as one of the Union officers deemed to have lost their employment status."

On October 6, 1992, petitioner filed a motion to quash the writ of execution. This was denied on November 5, 1992. While the Labor Arbiter's September 4, 1992 decision and his September 30, 1992 writ of execution limited his identification of those to be reinstated pending appeal to the forty-one (41) complainants led by Rolando Ocampo, Rowena Rebosa and Alfredo del Pilar, he later on identified all the respondents to be reinstated in his Order, dated November 5, 1992, rationalizing that —

"This alleged ground cited that other than three (3) individual respondents, namely, Rolando Ocampo, Alfredo del Pilar and Rowena Rebosa, the thirty-eight (38) others were not identified, the petitioner-bank cannot feign its lack of awareness as to who are the thirty-eight (38) other individual respondents considering that the petitioner itself notified the Supreme Court in its Manifestation/Motion filed on March 7, 1988 that —

'2. Since October 7, 1986 to date, petitioner has found equivalent positions only for 71 among 112 of those ordered reinstated by this Honorable Court, although petitioner Bank paid their salaries and other monetary benefits continuously from October 1986 to the present without rendering work, to the damage and prejudice of petitioner;

'3. Petitioner has exhausted all possible means to look for adequate equivalent positions for the remaining 41 employees but to no avail.'

"The petitioner attached to the said Manifestation/Motion a list of the forty-one (41) employees together with the corresponding separation pay and other benefits they are supposed to receive. And these forty-one (41) employees are, as follows: Daisy Adriano, Luisito Arellano, Teodoro Banaticla, Ruben Beltran, Jose Bufi, Walfrido Calcabin, Roy Casido, Edna Cioco, Rosauro Clerigo, Mary Ann Co, Delia Conde, Judith dela Cruz, Roberta dela Cruz, Carmen delos Santos, Rogelio Edora, Raul Gonzales, Balagtas Hernandez, Gerardo Ilano, Alan de Jesus, Hector Juliano, Teresita Licarte, Tony Manaois, Jaime Manipis, Edgar Marcelo, Rufino Marquez, Edgardo Nicasio, Rolando Ocampo, Irene Ocos, Herson Ozarraga, Alfredo del Pilar, Elpidio Pineda, Alfredo Raymundo, Rowena Rebosa, Dexter Sanchez, Romeo Simon, Noel Solis, Evangeline Saulog, Fe Uy, Ruel Velarde, Veronica Villarica, and Mario Marquez."[12]

On November 19, 1992, petitioner filed with the NLRC a consolidated petition for injunction docketed as NLRC NCR IC NO. 000316-92.

But, before the NLRC could decide on the issue of reinstatement pending appeal, respondents filed a petition for mandamus with us, docketed as G.R. No. 110687, to compel the Chairman of the NLRC to issue a writ of execution as regards the reinstatement aspect of the Labor Arbiter's September 4, 1992 decision.

On December 15, 1993, we promulgated a resolution dismissing the aforesaid petition for mandamus.

On April 7, 1994, the NLRC issued an Order directing the reinstatement of forty-one (41) respondents pending appeal and at the same time dismissing the bank's petition for injunction.

The NLRC upheld the Labor Arbiter's finding that the strikes staged by the employees of the bank on January 3 & 4, 1985 and from February 11 to March 11, 1985 were in violation of the provisions of Article 263 (g) of the Labor Code, as amended, as well as the Assumption Order of December 19, 1984 and as such the striking union members had lost their employment status.

However, in spite of its conclusion that the respondents were validly dismissed the NLRC opined that "the 41 respondents earned for themselves the right to be reinstated not only under Article 223 of the Labor Code, as amended by R.A. 6715, on March 2, 1989, but retroactive September 15, 1986, the date the Supreme Court ordered the implementation of the Order of MOLE Minister Sanchez directing the reinstatement of 'all striking employees except those who have accepted separation pay' [as 'only 71 of the 112 affected employees' were reinstated by the Bank (May 4, 1988 Resolution of the Supreme Court in G.R. 71239 and G.R. 75749 p. 7)]. It then remanded to the Labor Arbiter the query of whether or not the subject forty-one (41) individual respondents, who were not reinstated since 1986, can validly be paid back wages from September 1986 up to the time the NLRC promulgated its decision. The dispositive portion of the assailed decision reads as follows:

> "WHEREFORE, the appealed September 4, 1992 Decision insofar as concerns disposition (b) to (e) thereof, is hereby set aside.

> Our Order of April 7, 1994 is hereby reconsidered and likewise set aside. Instead, the question of whether or not the forty-one (41). Individual Respondents (led by Rolando Ocampo, Rowena Rebosa and Alfredo del Pilar) are entitled to back wages corresponding to the period that they should have been reinstated since 1986 is hereby remanded to the Arbiter of origin pursuant to the earlier quoted guideline of the Supreme Court in its May 4, 1988 resolution."[13]

The opposing parties moved for a reconsideration of the said decision, which motions were denied in a Resolution of the NLRC, dated July 8, 1994.

Hence, these petitions.

The crux of the present controversy is whether or not the striking union members terminated for abandonment of work after failing to obey the return-to-work order of the Secretary of Labor and Employment, should be reinstated with back wages.

Respondents contend that the NLRC committed grave abuse of discretion when it ruled that their dismissal is legal considering that mere participation of union members in an illegal strike should not automatically result in their termination from employment.[14]

We agree with respondents' contention that mere participation of union members in an illegal strike should not automatically result in their termination from employment. However, the case at bar involves a different issue as a perusal of the records shows that respondents were terminated from employment by reason of their defiance to the return-to-work order of the Secretary of Labor. Respondents staged a strike on January 3 and 4, 1985 or fourteen (14) days after then Labor Minister Ople assumed jurisdiction over the dispute between them and the bank. Thereafter, respondents again staged a strike from February 11 up to March 11, 1985 while their labor dispute with the Bank was still pending before Minister Ople.

The provisions of law which govern the effects of defying a return-to-work order are:

1) Article 263 (g) of the Labor Code

x x x

"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 lockout. 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 (a)

"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.

Any worker whose employment has been terminated as a consequent 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."

In the case of Union of Filipro Employees vs. Nestle Philippines., Inc.,[15] we ruled that 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 Article 264 (a) of the Labor Code. Moreover, the union officers and members who have participated in the said illegal activity, are, as a result, deemed to have lost their employment status. Thus, we held that:

> "UFE completely misses the underlying principle embodied in Art. 263 (g) on the settlement of labor disputes and this is, that assumption and certification orders are executory in character and are to be strictly complied with by the parties even during the pendency of any petition questioning their validity. This extraordinary authority given to the Secretary of Labor is aimed at arriving at a peaceful and speedy solution to labor disputes, without jeopardizing national interests.
>
> Regardless therefore of their motives, or the validity of their claims, the striking workers must cease and/or desist from any and all acts that tend to, or undermine this authority of the Secretary of Labor, once an assumption and/or certification order is issued. They cannot, for instance, ignore return-to-work orders, citing unfair labor practices on the part of the company, to justify their actions."
>
> 'x x x
>
> One other point that must be underscored is that the return-to-work order is issued pending the determination of the legality or illegality of the strike. It is not correct to say that it may be enforced only if the strike is legal and may be disregarded if the strike is illegal, for the purpose precisely is to maintain the status quo while the determination is being made. Otherwise, the workers who contend that their strike is legal can refuse to return to their work and cause a standstill on the company operations while retaining the positions they refuse to discharge or allow the management to fill. Worse, they will also claim

> payment for work not done, on the ground that they are still legally employed although actually engaged in the activities inimical to their employer's interest.
>
> This is like eating one's cake and having it too, and at the expense of the management. Such an unfair situation surely was not contemplated by our labor laws and cannot be justified under the social justice policy, which is a policy of fairness to both labor and management. Neither can this unseemly arrangement be sustained under the due process clause as the order, if thus interpreted, would be plainly oppressive and arbitrary."

In the cases of Sarmiento vs. Tuico,[16] and Asian Transmission Corporation vs. National Labor Relations Commission,[17] we explained the rationale for this rule:

> "It is also important to emphasize that the return-to-work order not so much confers a right as it imposes a duty; and while as a right it may be waived, it must be discharged as a duty even against the worker's will. Returning to work in this situation is not a matter of option or voluntariness but of obligation. The worker must return to his job together with his co-workers so the operations of the company can be resumed and it can continue serving the public and promoting its interest. That is the real reason such return can be compelled. So imperative is the order in fact that it is not even considered violative of the right against involuntary servitude, as this Court held in Kaisahan Ng Mga Manggagawa sa Kahoy vs. Gotamco Sawmills. The worker can of course give up his work, thus severing his ties with the company, if he does not want to obey the order; but the order must be obeyed if he wants to retain his work even if his inclination is to strike."

This principle was reiterated in the case of St. Scholastica's College vs. Torres,[18] wherein we cited the case of Federation of Free Workers vs. Inciong,[19] and held that:

> "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."

Hence, respondents' failure to immediately comply with the return-to-work order dated, December 16, 1984 and January 6, 1985 cannot be condoned.

Respondents also contend that there is nothing on record to prove that they knowingly participated in an illegal strike.[20]

Private respondents' contentions are belied by the records as there was an assumption order already issued by the Minister of Labor when they first conducted a strike on January 3 and 4, 1985, and this assumption order was still in effect when they struck continuously from February 11 to March 11, 1995. This knowledge of the assumption order is manifested in their answer dated September 26, 1985, which was summarized in the Decision of the Labor Arbiter dated September 4, 1992, the pertinent portions of which are hereby quoted:

> "On their part, the individual respondents in their answer dated September 26, 1985 denied that the strike on January 3 and 4, 1985 was illegal contending that there was already an amicable settlement pursuant to which the bank agreed to accept back to work all striking employees. Further, the said respondents alleged that the bank in an Order dated January 6, 1985 was directed to accept back all striking employees under the same terms and conditions previous to work stoppage and this order allegedly became final and executory. Regarding the strike on February 11, 1985, the respondents argued that the same is legal for the following alleged reasons, namely: (a) they resorted to such concerted action upon the representation of the union officers that it was legal; (b) said concerted action was resumption of their picketing activities considering that the Order of January 31, 1985 was nothing but a mere reiteration of the position taken by the bank on the deadlocked issues and the Minister unjustly ignored the position of the respondents; (c)

> the said action was justified in view of alleged acts of the bank amounting to unfair labor practices; and (d) the order of January 31, 1985 of the Minister has not yet become final considering that there was filed by this union a motion for reconsideration on February 11, 1985. The respondents charged as unfair labor practice the act of the petitioner in publishing in metropolitan newspapers the notices requiring the striking employees to return to work under threat of disciplinary action contending that it was a coercive act which was tantamount to interference and restraint when the publication adverted to the concerted action on February 11, 1985 as illegal. Furthermore, the respondents argued that even if the strike staged by them was illegal, they did not incur any liability for the following stated reasons, to wit: a) the individual respondents participated in the strike on the strength of representations/assurances made by union officers that the strike was legal; b) they have acted in good faith and merely exercised their constitutional right to strike and engage in concerted action; c) they acted in defense of their political and economic rights which were allegedly ignored by the Minister of Labor; d) they have acted in peaceful and orderly manner during the picketing and they did not commit any illegal or violent act; e) they have faithfully complied with the orders of the Minister of Labor and f) they merely acted in self-defense to repel the continuing acts of unfair labor practices committed by the petitioner's representatives and agents."[21]

Furthermore, private respondents contend that a strike is not synonymous with abandonment of work as the employer-employee relationship is not terminated during the duration of the strike but merely suspended. They also cited the cases of Insular Life Assurance Co. Ltd., Employees Association — NATU vs. The Insular Life Assurance Co. Ltd.,[22] and the case of RCPI vs. Philippine Communications Electronics & Electricity Worker's Federation,[23] wherein we held that mere failure to report for work after notice to return, does not constitute abandonment nor bar reinstatement.

However, private respondents' failed to take into consideration the cases recently decided by this Court which emphasized on the strict

adherence to the rule that defiance of the return-to-work order of the Secretary of Labor would constitute a valid ground for dismissal.

The respective liabilities of striking union officers and members who failed to immediately comply with the return-to-work order, are clearly spelled out in Article 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. Therefore, any worker or union officer who knowingly participates in a strike defying a return-to-work order may as a result thereof be considered to have lost his employment status.

Moreover, as aptly stated by the NLRC in its decision:

> "Abandonment of work as a ground to dismiss under Article 282 (b) of the Labor Code should not be confused with abandonment of work under the law on strike, particularly those as provided in Article 263 (g) and Article 264 (a) of the Labor Code. To rule that [t]o constitute abandonment of position, there must be concurrence of the intention to abandon and some overt act from which it may be inferred that the employee concerned has no more interest in working while available as a defense against dismissals under Article 282 of the Labor Code, cannot, however, be validly invoked in dismissals resulting from a striker's defiance of a DOLE Secretary's assumption order so clearly spelled out in Article 263 (g) of the Labor Code, much less as a defense against the ban on strikes after assumption of jurisdiction by the Minister of Labor and Employment (Article 264 (a), Labor Code)."[24]

Furthermore, as non-compliance with an assumption or certification order is considered as an illegal act committed in the course of a strike, the Ministry of Labor and Employment (now DOLE) is authorize to impose such sanctions as may be provided for by law which may include the hiring of replacements for workers defying the order. In the case of Jackbilt Concrete Block Company, Inc. vs. Norton and Harrison Company,[25] it appeared that in an earlier decision the Supreme Court ordered the reinstatement without back wages of the strikers who staged a strike on the good-faith belief that the Company had committed an unfair labor practice. Some of the

strikers reported for work and were reinstated. The rest of the strikers listed in the order either ignored or disobeyed said order. Of the strikers who reported for work, some have either not submitted themselves to medical examination as required and did not report back anymore or after having gone through medical examination, did not report back for work, or after reporting back for work did not continue working anymore and the others were found suffering from disease and unfit for work.

Before the Supreme Court, the Company raised in issue the employment status of the strikers who failed to comply with the return-to-work order, contending that they should be declared to have forfeited their right to reinstatement. Sustaining this contention, the Supreme Court said:

> "We are also of the opinion and so hold that the strikers who failed, without proper justification, to report for work assignment despite the issuance of the orders reinstating them to their jobs are deemed to have forfeited their right to reinstatement. Their unexplained failure to request for another period or an extended period within which to comply with the reinstatement orders and report back for work militates against them.
>
> In East Asiatic Company Ltd., et al. vs. CIR, et. al., G.R. No. L-29068, August 31, 1971, 40 SCRA 521, this Court had occasion to rule that the failure to report for work when one had the opportunity to do so waived thereby his right to reinstatement. Because of the apparent lack of interest of the strikers concerned as shown by their failure to report for work without justifiable reason with the petitioner herein, We are constrained to declare them to have forfeited their right to reinstatement."

In the case at bar, we fully agree with the ruling of the NLRC in declaring that respondents were validly dismissed considering their defiance of the return-to-work order issued by the Secretary of Labor. As a consequence of such defiance, they are considered severed from their employment.

Apparently, the basis of the portion of NLRC's decision remanding the issue of back wages to the Labor Arbiter, is this Court's Resolution dated May 4, 1988 issued in the cases of Allied Bank Employees Union-NUBE, et al. vs. Hon. Blas Ople, et al., G.R. No. 71239 and Allied Banking Corporation vs. Hon. Augusto S. Sanchez, et al., G.R. No. 75749. In the said resolution we remanded the aforecited cases to the Department of Labor, the dispositive portion of which reads:

> "Considering the foregoing, the Court RESOLVED to DISMISS the instant petitions and to REMAND them to the Department of Labor and Employment and its pertinent agencies for further proceedings as outlined in this resolution. This action is without prejudice to either or both parties filing an appropriate and concise petition with this Court, if they are so minded after the final administrative determination of the issues has been made."[26]

Furthermore, a perusal of our Resolution reveals that the issue of whether or not the forty one (41) respondents should be paid back wages from September, 1986 up to the date of the promulgation of the decision, was not raised therein. Only the determination of factual matters, i.e., whether or not the strike was illegal; the roles played by respondents should the strike be declared illegal; issue of representation and the impossibility of reinstating the 41 respondents by bank, were remanded by this Court to the DOLE.

This Resolution of ours, as must be noted, was issued when the petition to declare the strike illegal has not yet been resolved. It was only resolved last September 4, 1992, when the NLRC issued a Decision declaring the strike illegal and upholding the dismissal of the respondents. The reinstatement ordered by then Minister Sanchez, in his August 29, 1986 order, was only provisional and subject to the outcome of the petition to declare the strike illegal, viz:

> "In his order dated August 29, 1986, Minister Sanchez ordered reinstatement pending the final outcome of the petition initiated by the Bank to declare the strike illegal. The reinstatement is, therefore, provisional. A permanent reinstatement will depend on the legality or illegality of the strike."

As a consequence of the declaration of the illegality of the strike and the upholding of the dismissal of respondents in the NLRC Decision, the factual matters mentioned in our Resolution dated May 4, 1988 have already become moot and academic.

Moreover, an award of back wages is incompatible with the findings of the NLRC upholding the dismissal of respondents.

The NLRC's disposition of the case remanding to the Labor Arbiter the issue of reinstating respondents and the computation of their back wages is an illogical consequence of respondents' valid dismissal from their employment. Such disposition is inconsistent with our pronouncement in the cases aforecited and should be struck down as having been issued with grave abuse of discretion.

Respondents also contend that the NLRC should have adopted a liberal approach favoring labor which this Court has upheld in its decisions and that the employers are urged to be more compassionate as to their workers' needs.[27]

We agree with respondents' contention that this Court should view with compassion the plight of the workers. However, this sense of compassion should be coupled with a sense of fairness and justice to the parties concerned. Hence, while social justice has an inclination to give protection to the working class, the cause of the labor sector is not upheld at all times as the employer has also a right entitled to respect in the interest of simple fair play.[28] Thus, in the case of St. Scholastica's College vs. Torres,[29] we stated that:

> "The sympathy of the Court which, as a rule, is on the side of the laboring classes (Reliance Surety and Insurance Co., Inc. vs. NLRC), 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 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."

WHEREFORE, the NLRC Decision of May 20, 1994 is **AFFIRMED** with respect to the finding that private respondents were validly dismissed. However, as to its disposition that the issue of reinstatement and computation of back wages be remanded to the Labor Arbiter, the same, being inconsistent with the finding of valid dismissal, is **ANNULLED** and **SET ASIDE**.

SO ORDERED.

Padilla, Bellosillo, Vitug and Kapunan, *JJ.*, concur.

---

[1] Docketed as G.R. No. 116128.
[2] Docketed as G.R. No. 116461.
[3] G.R. No. 116128, Rollo, p. 91.
[4] G.R. No. 116128, Rollo, pp. 95-99
[5] Record, p. 507.
[6] G.R. No. 116128, Rollo, p. 44.
[7] G.R. No. 116128, Rollo, pp. 46-48.
[8] Id., Rollo, pp. 49-50.
[9] G.R. No. 116128, Rollo, pp. 51-52.
[10] G.R. No. 116128, Rollo, p. 53.
[11] G.R. No. 116128, Rollo, pp. 54-55.
[12] G.R. No. 116128, Rollo, pp. 57-58.
[13] G.R. No. 116128, Rollo, p. 68.
[14] G.R. No. 116461, Rollo, pp. 80-89.
[15] 192 SCRA 396 (1990).
[16] 162 SCRA 676 (1988).
[17] 179 SCRA 582 (1989).
[18] 210 SCRA 565 (1992).
[19] 208 SCRA 157 (1992).
[20] G.R. No. 116461, Rollo, pp. 89-90.

[21] G.R. No. 116128, Rollo, pp. 305-306.
[22] 37 SCRA 244 (1971).
[23] 58 SCRA 763 (1974).
[24] G.R. No. 116128, Rollo, pp. 62-63.
[25] 71 SCRA 44 (1976).
[26] G.R. No. 116128, Rollo, p. 49.
[27] Rollo, p. 86.
[28] National Sugar Refineries Corporation vs. National Labor Relations Commission, 220 SCRA 452 (1993).
[29] 210 SCRA 565 (1992).