

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**ASIAN TRANSMISSION CORPORATION,
*Petitioner,***

-versus-

**G.R. No. 88725
November 22, 1989**

**NATIONAL LABOR RELATIONS
COMMISSION; COMMISSIONERS
CEFERINO DULAY, MIRASOL
CORLETO AND ROBERTO
TOLENTINO; JOSE C. ESPINAS; AND
BISIG NG ASIAN TRANSMISSION
LABOR UNION (BATLU),
*Respondents.***

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DECISION

NARVASA, J.:

The Special Civil Action of *Certiorari* and Prohibition at bar is an offshoot of two earlier cases decided by this Court on June 27, 1988, involving substantially the same controversy and the same parties.

These prior cases were G.R. Nos. 75271-73, entitled "Catalino N. Sarmiento and 71 other striking workers of Asian Transmission

Corporation vs. Hon. Judge Orlando R. Tuico, etc., et al,” and G.R. No. 77567 entitled “Asian Transmission Corporation (ATC) vs. NLRC.” Two basic questions were presented, one of which was whether or not a return-to-work order may be validly issued by the National Labor Relations Commission pending determination of the legality of the strike. The directive in question reaffirmed a return-to-work order first issued by the Ministry of Labor and Employment on June 3, 1986, reiterated on June 13, 1986 and again on November 24, 1986.

The issue was resolved in the affirmative by the Court,^[1] the Court devoting some words to the real reason for authorizing a return to work pending resolution of a labor dispute, viz.:

“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* (80 Phil. 521). 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.”

The Court also observed that the return-to-work order of June 3, 1986 was not only ignored but was defied by forty-four (44) employees who, despite notice thereof, staged a strike and engaged in picketing; and it was for this reason that when compliance with the return-to-work directive was sought by those employees, the employer refused to accept them back. This, despite still another return-to-work order contained in the Resolution of the respondent Commission dated January 13, 1987,^[2] pertinently reading as follows:

“Considering that the petitioner (ATC) despite the order dated 24 November 1986 of the Acting Minister ‘to accept all the returning workers,’ continues to defy the directive insofar as 44 of the workers are concerned, the Commission, sitting en banc, resolved to order the petitioner to accept the said workers, or to reinstate them on payroll immediately upon receipt of the resolution.”

The Court held the employer’s refusal to be justified.

“While the ATC has manifested its willingness to accept most of the workers, and has in fact already done so, it has balked at the demand of the remaining workers to be also allowed to return to work. Its reason is that these persons, instead of complying with the return-to-work order, as most of the workers have done, insisted on staging the restrained strike and defiantly picketed the company premises to prevent the resumption of operations. By so doing, the ATC submits, these strikers have forfeited their right to be readmitted, having abandoned their positions, and so could be validly replaced.”

The Court agrees.

The records show that the return-to-work order was first issued on June 3, 1986, and was reiterated on June 13, 1986. The strike was declared thereafter, if we go by the criminal complaints in G.R. Nos. 75271-73, where the alleged acts are claimed to have been done on June 9, 1986 and July 16, 1986. These dates are not denied. In fact, the petitioners argue in their pleadings that they were engaged only in peaceful picketing, which would signify that they had not on those dates returned to work as required and had decided instead to ignore the said order. By their own acts, they are deemed to have abandoned their employment and cannot now demand the right to return thereto by virtue of the very order they have defied.

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Accordingly, the Court holds that the return-to-work order should benefit only those workers who complied therewith and,

regardless of the outcome of the compulsory arbitration proceedings, are entitled to be paid for work they have actually performed. Conversely, those workers who refused to obey the said order and instead waged the restrained strike are not entitled to be paid for work not done or to reinstatement to the positions they have abandoned by their refusal to return thereto as ordered.”

The holding was reaffirmed in this Court’s Resolution dated February 22, 1989 which resolved inter alia the motion for reconsideration filed by the workers affected (G.R. Nos. 75271-73). The Resolution stressed that —

“The NLRC had the authority to issue the return-to-work order, subject to sanctions for non-compliance therewith. The Court can impose such sanctions. Those strikers who defied the order and refused to return to work as required cannot now complain if they are deemed to have forfeited their employment as a consequence of their intransigence.”

On remand of the case to the NLRC, the Bisig ng Asian Transmission Labor Union (BATLU) filed on April 3, 1989 a motion for execution in behalf of the workers seeking readmission, whose number had been reduced to thirty-four (34) by this time. The Union prayed that — in line with the NLRC Resolution of January 13, 1987, which they implied had been upheld by this Court — they be reinstated, actually or “on payroll pending the computation of their back wages and other fringe benefits from the time (they) offered to return to work.”^[3]

The NLRC (Third Division) granted the motion, by Resolution dated June 13, 1989, justifying its action as follows:

“Firstly, the Supreme Court affirmed Our resolution of 13 January 1987, which clearly underscored that the return-to-work was issued even pending the determination of the legality or illegality of the strike; secondly, the decision of the Supreme Court dated 27 June 1988 as well as its Resolution of 22 February 1989 held that the return-to-work order should inure to the benefit of those who comply therewith, and regardless of the result or outcome of the compulsory arbitration proceedings

(???) and thirdly, the grant of the motion for execution is in consonance with the essence of a return-to-work as expounded by the Supreme Court.

Indeed, were We to deny this motion for execution it would practically emasculate the very import and objective of a return-to-work order and thus inevitably lead to untold sufferings to the workers as well as losses to the company pending final resolution of their dispute. Where national interest is at stake, the implementation of a return-to-work order must not be subject to a selective basis by the company — who are to be readmitted or not, as in this case where 34 workers out of the 44 ordered to be accepted by the company, or reinstated on payroll, are still left out in the cold.”

This Resolution is what the petitioner ATC would have this Court annul and perpetually restrain. The petitioner would also have Us require “respondents to show cause why they should not be cited for contempt for subverting or violating the Supreme Court’s decision (promulgated June 27, 1988) and resolution (dated February 22, 1989) in G.R. No. 75271-73 and No. 77567).”

The petitioner’s submittals have merit. The writs prayed for will issue. It is difficult to see how this Court’s decision and its subsequent resolution on the motion for reconsideration in G.R. Nos. 75271-73 and 77567 could be misread by both the public and the private respondents as upholding or affirming the claim to reinstatement of the petitioner’s forty-four (44) employees who had staged a strike in defiance of the return-to-work order of June 3, 1986.

True said decision held valid the questioned NLRC resolutions of January 13, 1987 and February 12, 1987 reaffirming the order of November 24, 1986 of the Acting Minister of Labor “to accept all returning workers.” But it did so subject to an important and explicitly stated qualification; said orders were affirmed “as above interpreted,”^[4] the clear and unmistakable reference in the quoted phrase being to the pronouncements made in the body of the decision on the implications and consequences of a return-to-work order - specifically, the return-to-work order of June 3, 1986.

On that subject, the Court's decision, after finding that on the record the forty-four workers involved had declared a strike and, in fact, admitted to having engaged in picketing after the issuance of said return-to-work order and its reiteration on June 13, 1986, declared in no uncertain terms that the benefit of readmittance and payment for work performed applied only to the workers who complied with the order, not to those who refused to obey it. Nothing can more clearly reveal what was in the mind of the Court and the correct thrust of its ruling than this passage earlier quoted from its decision which, for what reason, bears repeating:

“Accordingly, the Court holds that the return-to-work order should benefit only those workers who complied therewith and, regardless of the outcome of the compulsory arbitration proceedings, are entitled to be paid for work they have actually performed. Conversely, those workers who refused to obey the said order and instead waged the restrained strike are not entitled to be paid for work not done or to reinstatement to the positions they have abandoned by their refusal to return thereto as ordered.”

That disposition came as but a logical consequence of the Court's pronouncement stressing that the return-to-work order imposes a duty that must be discharged more than it confers a right that may be waived, and that while the worker may choose not to obey, he does so at the risk of severing his relationship with his employer.

The interpretation advocated by the respondents is warranted neither by the plain language of the Court's decision nor by a sensible, reasonable reading of its entire context. The questioned NLRC resolution being wholly premised on such an interpretation must be struck down as issued with grave abuse of discretion. In view of this conclusion and there appearing no compelling reason for a show-cause order, the petitioner's additional plea for such an order is denied.

WHEREFORE, the NLRC Resolution of June 13, 1989 is **ANNULLED** and **SET ASIDE**. Execution of this Court's decision in G.R. Nos. 75271-73 and 77567 to effect or compel reinstatement by the petitioner of the forty-four workers declared without right thereto

in said decision, is perpetually restrained. Costs against the private respondents.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino and Medialdea, *JJ.*, concur.

[1] The opinion was written by Mr. Justice I. A. Cruz.

[2] Reiterated on February 12, 1987.

[3] Annex D, petition, Rollo, pp. 47, 49.

[4] Decision, G.R. Nos. 75271-73 and 77567, p. 13, dispositive portion.

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