

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**ASSOCIATION OF COURT OF APPEALS
EMPLOYEES (ACAE),**

Petitioner,

-versus-

**G.R. No. 94716
November 15, 1991**

**HON. PURA FERRER-CALLEJA, in her
capacity as Director, Bureau of Labor
Relations, and UNION OF CONCERNED
EMPLOYEES OF THE COURT OF
APPEALS (UCECA),**

Respondents.

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DECISION

GUTIERREZ, JR., J.:

We are asked in this Petition to ascertain the power, if any, of the Department of Labor and Employment (DOLE), more specifically the Bureau of Labor Relations (BLR), to supervise the activities of government employees; in this case, unions of judiciary personnel who serve in the Court of Appeals.

The question of power is quite significant. Hitherto, the BLR has concentrated on labor relations in the private sector. Its enforcement

machinery and the mass of law and jurisprudence governing its functions are entirely geared to the handling of the peculiar problems arising in private employment. In this case, the BLR has tasked itself to intervene not only in a quarrel between two groups of government employees but more important, in a quarrel between employees working for an independent branch of government, the Judiciary.

The two issues raised in this petition are: (1) whether or not the respondent Bureau of Labor Relations acted with grave abuse of discretion when it granted the petition for certification election to determine the certified bargaining agent to represent the rank-and-file employees of the Court of Appeals; and (2) whether or not a petition for cancellation of registration of the union requesting for a certification election is a bar to the resolution of a prior petition for certification election.

The antecedent facts of the case are as follows:

On April 4, 1990, the respondent Union of Concerned Employees of the Court of Appeals (UCECA), a registered union ruled a petition for accreditation and/or certification election with the Bureau of Labor relations (docketed as BLR Case No. 4-11-90) alleging that the petitioner, Association of Court of Appeals Employees (ACAE) which is the incumbent bargaining representative, no longer enjoys the support of the majority of the rank-and-file employees. The UCECA alleged that there was a mass resignation of ACAE members on April 14, 1989.

On May 10, 1990, the ACAE filed its Comment and/or Opposition. It stated that the listing by the ACAE of its membership at three hundred three (303) employees was a product of fraud. It charged the UCECA with misrepresentation, forgery and perjury in attaching to its (UCECA) petition, a copy of the names of members some of which were twice listed, written without consent or unsigned, and some of the signatures of which were forged. In addition, the petitioner alleged that some of the UCECA members, upon learning of the fraudulent act, resigned from the union.

In its reply, the UCECA stated that its registry book was not smeared with fraud and claimed that any mistakes were only clerical errors.

On June 18, 1990, petitioner ACAE filed a Petition for Cancellation of Certificate of Registration of the UCECA in BLR Case No. 6-19-90 on the ground of fraud and misrepresentation by UCECA in obtaining its Registration Certificate No. 159 and in preparing its Registry Book of members. On June 28, 1990, the ACAE moved for deferment of the resolution of the case of BLR 4-11-90 pending the case of BLR 6-19-90.

On July 16, 1990, the UCECA filed a motion to dismiss BLR 6-19-90 for being dilatory, to which ACAE replied that the maxim of *res ipsa loquitur* should be applied as the “fraudulent documents submitted by UCECA speak for themselves.”

On July 30, 1990, the Bureau of Labor Relations ruled that BLR 6-19-90 (cancellation proceedings) is not a bar to the holding of a certification election. It granted the UCECA’s prayer for a certification election. The BLR found that UCECA was supported by three hundred three (303) or forty (40%) percent of the seven hundred sixty two (762) rank-and-file employees of the court. ACAE’s motion for reconsideration was denied.

On August 21, 1990, the respondent Bureau conducted a pre-election conference.

Feeling that it was being stampeded into participating in a certification election, ACAE filed this petition for certiorari and prohibition. We issued a temporary restraining order effective August 29, 1990.

The first question that arises is the jurisdiction of the Bureau of Labor Relations to handle disputes among associations of employees working for the judiciary.

There is no question that government employees may organize provided the purposes behind such organization are legitimate.

No less than the Bill of Rights specifically identifies government employees as having the right of self-organization. It provides:

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“SECTION 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall be abridged.” (Article III, 1987 Constitution).

In the provisions governing the Civil Service Commission, we find:

“SECTION 2. (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

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SECTION 2. (5) The right to self-organization shall not be denied to government employees.”

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(Article IX-B, Section 2 (1) and (5), Constitution).

The article on Social Justice and Human Rights adds:

“SECTION 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.” (Article XIII, Section 3, 1st and 2nd paragraphs)

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The issue of what governs and who supervises unions of government employees is of more than passing concern especially when those who organize and hope to engage in certain forms of concerted action are court employees.

Government personnel find themselves in an equivocal and ambivalent position. They have a right but it is not clear to what extent they may exercise it. Congress has not legislated as yet on the complicated problems arising from unionism in government as distinguished from unionism in the private sector. Obviously, the same rules do not and cannot apply under the present state of the law. A major re-ordering of government, notably its civil service laws and budgetary and fiscal procedures would result if Congress, in enacting the laws required by the constitutional provisions, gives exactly the same rights and privileges to all workers in the public and private sectors.

At present, the terms and conditions of employment in the government service are governed by law, not by the relative strengths of management and labor as they hammer out mutually acceptable terms across the collective bargaining table. Paradoxically, all the representatives of “labor” and “management” in government are employees. At the same time, everybody forms part of the “owner” of the enterprise, the sovereign people. The qualifications and eligibilities of civil servants, their appointment and promotion, standardization of salaries, disciplinary actions, fringe benefits, and retirement gratuities, among others, are governed by statutes, rules, and established principles which are the products of decades of experience, not to mention borrowings from civil service systems abroad.

The provisions of civil service law on the terms and conditions of employment including the regulation of labor-management relations in the government sector, unless Congress decides to amend or repeal them, form part of the response to any requests or demands of organized groups of government personnel. Any understanding between the top officials of a government agency and the union which represents the rank-and-file is subordinate to the law governing the particular issue or situation.

We emphasize the above because in ascertaining what agency should supervise certification elections in the public sector, we limit the determination strictly to the question before us — the holding of certification elections. Jurisdiction over questions which may arise after the certified bargaining representative flexes its muscles and engages in concerted action will have to await the filing of more appropriate cases and, hopefully, the enactment of applicable legislation.

The Constitution provides that the rights of all workers to self-organization, collective bargaining, and peaceful concerted activities, including the right to strike, are guaranteed provided these are in accordance with law. There is reference to the need for a law governing the procedures incident to self-organization.

What is the law which governs certification elections in the Court of Appeals?

The Solicitor General argues that the applicable law is Executive Order No. 180 issued on June 1, 1987 entitled “Providing Guidelines for the Exercise of the Right to Organize of Government Employees; Creating a Public Sector Labor-Management Council; and for other Purposes.”

The pertinent provisions of Executive Order No. 180 are:

“SECTION 7. Government employees’ organizations shall register with the Civil Service Commission and the Department of Labor and Employment. The application shall be filed with the Bureau of Labor Relations of the Department which shall process the same in accordance with the provisions of the Labor Code of the Philippines as amended. Applications may also be filed with the Regional Offices of the Department of Labor and Employment which shall immediately transmit the said applications to the Bureau of Labor Relations within three (3) days from receipt thereof.

SECTION 8. Upon approval of the application a registration certification shall be issued to the organization recognizing it as a legitimate employees' organization with the right to represent its members and undertake activities to further and defend its interest. The corresponding certificates of registration shall be jointly approved by the Chairman of the Civil Service Commission and Secretary of Labor and Employment.

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SECTION 10. The duly registered employees' organization having the support of the majority of the employees in the appropriate organizational unit shall be designated as the sole and exclusive representative of the employees.

SECTION 11. A duly registered employees' organization shall be accorded voluntary recognition upon a showing that no other employees' organization is registered or is seeking registration, based on records of the Bureau of Labor Relations, and that the said organization has the majority support of the rank-and-file employees in the organizational unit.

SECTION 12. Where there are two or more duly registered employees' organizations in the appropriate organizational unit, the Bureau of Labor Relations shall, upon petition, order the conduct of a certification election and shall certify the winner as the exclusive representative of the rank-and-file employees in said organization unit." (Rollo, pp. 235-237)

It is obvious that Executive Order No. 180 is at best a stop gap measure for a limited purpose. Certain provisions and procedures in the Labor Code were engrafted into a decree governing the entirely novel situation of unionism in the governmental sector. Enacted a little over one month and a half before Congress reconvened after the revolutionary government was replaced by the present government, it unfortunately lacks a legislative record, parliamentary debates, and the insights that only the elected representatives of all the people can bring to bear in the regulation of a complicated and sensitive relationship.

The petitioner questions the validity of Executive Order No. 180 but limits its challenge to an alleged violation of the separation of powers doctrine. The argument is self-defeating because, followed to its logical conclusion, only this Court would have the power to supervise certification elections in the Court of Appeals. The task is not for us and we certainly have no intention to undertake it.

It is the function of this Court, and we will not hesitate to exercise the power, to regulate all activities of Judges and court personnel, the Supreme Court included, to the end that the independence, effectiveness, and integrity of the Judiciary as mandated by the Constitution are not impaired or compromised. It is axiomatic, for example, that any demands of court employees for higher compensation or improved facilities must be viewed in the context of the fiscal autonomy guaranteed by the Constitution to the Judiciary. (Constitution, Article VIII, Section 3). Neither DOLE, the Civil Service Commission (CSC), nor any other agency would have jurisdiction to adjudicate such claims. And since unresolved legal questions commenced elsewhere are ultimately decided by us, the final decision on all such questions would still be with this Court.

All this does not mean that the separation of powers doctrine requires us to supervise the details of self-organization activities in the courts. In the same way that CSC validly conducts competitive examinations to grant requisite eligibilities to court employees, we see no constitutional objection to DOLE handling the certification process in the Court of Appeals, considering its expertise, machinery, and experience in this particular activity. Executive Order No. 180 requires organizations of government employees to register with both CSC and DOLE. This ambivalence notwithstanding, the CSC has no facilities, personnel, or experience in the conduct of certification elections. The BLR has to do the job.

Executive Order No. 180 states that certificates of registration of the legitimate employee representatives must be jointly approved by the CSC Chairman and the DOLE Secretary. Executive Order No. 180 is not too helpful in determining whose opinion shall prevail if the CSC Chairman and the DOLE Secretary arrive at different conclusions. At any rate, we shall deal with that problem when it occurs. Insofar as

power to call for and supervise the conduct of certification elections is concerned, we rule against the petitioner.

One final point on the petitioner's objection to the jurisdiction of the BLR. ACAE cannot persuasively challenge the validity of Executive Order No. 180 because its very personality to bring this suit is premised on its having organized under the same executive order. The first paragraph of the petition reads:

- “1. — Petitioner ASSOCIATION OF COURT OF APPEALS EMPLOYEES, ACAE for brevity, is an association of government employees duly organized and existing under and by virtue of Executive Order No. 180, duly accredited as the exclusive representative of the rank-and-file employees of the Court of Appeals, with office address at the Court of Appeals Compound, M. Orosa Street, Ermita, Manila.” (Rollo, p. 2)

The petitioner argues that the respondent UCECA failed to prove that it no longer enjoys the support of the rank-and-file employees. ACAE claims that it has 395 members. It states that if the fraudulently entered names numbering 88 are all deducted from the 303 listed names for UCECA, there would actually be 215 members only left. Even assuming, therefore, that the petitioning union has satisfied the required percentage of signatures (20%) according to section 2 of Rule VI, Rules and Regulations to Govern the Exercise of the Right of Government Employees to Self-Organization, no election can be had if the incumbent bargaining representative still has the clear majority.

It is precisely because the respondent union has been questioning the majority status of the petitioner that a petition for certification election was filed. Nowhere in the rules is there a further requirement for a petitioning union to prove the lack of a majority status of the incumbent representative or who among its listed members are not actually affiliated with it. What is merely required for a petition for certification election to be granted is the filing of a verified petition which is supported by the signatures of at least twenty (20%) percent of the covered employees. It is also essential that it is not filed within one (1) year from the date a declaration of a previous final certification election result was issued.

The BLR has satisfied itself that the private respondent has faithfully complied with the bare requirements for the petition. It is a well-settled rule that “a certification proceedings is not a litigation in the sense that the term is ordinarily understood, but an investigation of a non-adversarial and fact finding character.” (Associated Labor Unions (ALU) vs. Ferrer-Calleja, 179 SCRA 127 [1989]; Philippine Telegraph and Telephone Corporation vs. NLRC, 183 SCRA 451 [1990]). Thus, the technical rules of evidence do not apply if the decision to grant it proceeds from an examination of the sufficiency of the petition as well as a careful look into the arguments contained in position papers and other documents.

The public respondent has found the petition to be sufficient in form and substance there being compliance with the twenty (20%) percent support signatures. The factual findings of the Bureau of Labor Relations on this matter appear to be supported by substantial evidence and we, accordingly, accord them great weight and respect. They shall not be disturbed by the Court in the absence of proof of reversible error. (See Philippine Airlines Employees’ Association (PALEA) vs. Ferrer-Calleja, 162 SCRA 426 [1988]; Airtime Specialists, Inc. vs. Ferrer-Calleja, 180 SCRA 749 [1989]) On the basis of its findings, it was only proper for the public respondent to order the holding of a certification election which is mandatorily required by Section 12, Executive Order No. 180:

“SECTION 12. Where there are two or more duly registered employees’ organizations in the appropriate organizational unit, the Bureau of Labor Relations shall, upon petition, order the conduct of a certification election and shall certify the winner as the exclusive representative of the rank-and-file employees in said organizational unit.” (Emphasis Supplied)

Even assuming there were fraudulently included names or signatures, respondent UCECA would still have complied with the twenty (20%) percent requirement. The remaining, i.e. 215, alleged by petitioner ACAE constitutes twenty eight (28%) percent of the rank-and-file court employees.

The result of the certification election shall determine who between the petitioner and the private respondent is telling the truth. As we have ruled in *Philippine Airlines Employees' Association (PALEA) vs. Ferrer-Calleja*, (supra):

“Whenever there is doubt as to whether a particular union represents the majority of the rank-and-file employees, in the absence of a legal impediment, the holding of a certification election is the most dramatic method of determining the employee’s choice of their bargaining representative. It is the appropriate means whereby controversies and disputes on representation may be laid to rest, by the unequivocal vote of the employees themselves.” (At page 431)

The petitioner likewise argues that the certification proceedings should be suspended pending its petition for the cancellation of union registration of the UCECA.

The records shows that UCECA was registered with the Civil Service Commission on March 16, 1990. (Rollo, p. 45) When the said union was organized, some of its members allegedly used to be members of the ACAE who tendered mass resignations on August 14, 1989 and on September 29, 1989. (Rollo, pp. 27-35) On January 30, 1990, the officers of ACAE, in Board Resolution No. 8 resolved that the resignations tendered were irregular and must be accomplished individually. (Rollo, p. 55) Thereafter, for some reasons, some of the listed members in the Registry Book of the UCECA wrote individual letters to UCECA in April, 1990 either questioning the inclusion of their names or tendering their resignations.

On June 18, 1990, the petitioner herein filed its petition to cancel the union registration of UCECA. The act of the petitioner in charging commissions of fraud and misrepresentation against UCECA only after realizing the rising membership of the latter and the subsequent petition for certification election raises grave suspicions as to whether or not it wants to subvert the right of the employees to determine the proper exclusive representative or agent now that they are given two unions from which to choose. Assuming for the sake of argument that the petitioner ACAE had lawful grounds to challenge the existence of the UCECA, it should have done so, soon after the date it had notice

or knowledge of the registration of the latter to protect its own interests and not a later time when its bargaining position was already at the risk of being lost.

At any rate, the Court applies the established rule correctly followed by the public respondent that an order to hold a certification election is proper despite the pendency of the petition for cancellation of the registration certificate of the respondent union. The rationale for this is that at the time the respondent union filed its petition, it still had the legal personality to perform such act absent an order directing a cancellation.

It is the policy of the State in protecting the rights of labor to ensure and maintain industrial peace. For this reason, all employees of an appropriate bargaining unit shall be given an opportunity to organize and to determine which labor organization should be their exclusive bargaining representative. Hence, a petition for certification election filed by an interested labor organization shall be dealt with accordingly, with a view to attaining this objective. This is especially true when it involves the ultimate respect for and protection of the rights of government employees. In granting to employees in the civil service the right to organize, a procedure has been enacted to allow them to select what union shall be the recognized representative for all those in one agency, i.e., a certification election. (Sections 5, 6 and 12; Executive Order No. 180; Sections 3 and 4, Rule V and Rule VI, Rules and Regulations to Govern the Exercise of the Government Employees to Self-Organization).

The freedom of choice given to workers is a constitutional right. Therefore, the holding of a certification election, being a statutory policy, should not be circumvented. (*Associated Trade Unions-ATU vs. Noriel*, 89 SCRA 264 [1979]); *Philippine Airlines Employees' Association (PALEA) vs. Ferrer-Calleja*, supra; *Airtime Specialists, Inc. vs. Ferrer-Calleja*, supra).

WHEREFORE, the petitioner having failed to show grave abuse of discretion committed by the public respondent, the petition is hereby **DISMISSED**. The assailed orders of the public respondent are **AFFIRMED**. The Temporary Restraining Order issued on August 29, 1990 is **LIFTED**.

SO ORDERED.

Fernan, C.J., Bidin, Davide, Jr. and Romero, J.J., concur.

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