SUPREME COURT
SECOND DIVISION

HENRY BACUS, MAXIMO DANGGA, SALVADOR FLORES, VICTOR FUENTES, SANTIAGO LACQUIO, LUZ FUENTES, ELEODORO GAJO, JUANITO GENILLA, GODOFREDO GAC-ANG, and CALIXTO COYNO,
***Petitioners*,**

-versus-

G.R. No. L-56856
October 23, 1984

HON. BLAS OPLE, Minister of Labor and Employment and FINDLAY MILLAR TIMBER COMPANY,
***Respondents*.**
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D E C I S I O N

CUEVAS, *J.*:

This Petition for *Certiorari* with Preliminary Injunction seeks to set aside, for allegedly having been rendered with grave abuse of discretion or without or in excess of jurisdiction, the Decision[1] dated October 18, 1979 of the then Deputy Minister of Labor and Employment, Amado G. Inciong, acting by authority of the Minister of Labor and Employment, in Case No. MOL003-79 entitled "In Re:

Clearance Application to Dismiss Employees; Findlay Millar Timber Company, applicant vs. Henry Bacus, et al., respondents," which declared the strike staged by workers of private respondent, Findlay Millar Timber Company, as illegal and granted the clearance to terminate the employment of the ten (10) petitioners as well as the order dated March 10, 1981 of respondent Minister of Labor and Employment, Blas F. Ople which denied the motion for reconsideration of the said decision.

As prayed for, this Court issued a temporary restraining order[2] enjoining the enforcement of the questioned decision.

Findlay Millar Timber Company hereinafter referred to as the Company, a domestic corporation duly organized and existing under Philippine Laws with principal office at Kolambugan, Lanao del Norte, is engaged in logging and manufacture of plywood, veneer and other lumber products. The company employs approximately 2,000 employees,[3] more or less, among whom are the herein petitioners, namely:

1.	Bacus, Henry	Mason Russel Operator
2.	Coyno, Calixto	Splicer Operator
3.	Dangga, Maximo	Scaler
4.	Fuentes, Luz	Handtaper
5.	Fuentes, Victor	Chainsaw Operator
6.	Gajo, Eleodoro	Boiler Tender
7.	Gac-ang, Godofredo	Splicing Tender
8.	Flores, Salvador	Veneer Sorter
9.	Genilla, Juanito	Veneer Hog Operator
10.	Lacquio, Santiago	Log Deck Scaler

On February 19, 1979, about 1,400 employees, more or less, of the Company staged a mass walk-out, allegedly without anybody leading them as it was a simultaneous, immediate and unanimous group action and decision, to protest the non-payment of their salaries and wages from January 1, 1979 to February 15, 1979 and the Company's non-compliance since 1974 with the Presidential Decrees on cost-of-living allowance, non-payment of unused vacation and sick leaves, and non-payment of the 13th month pay for 1977 and 1978.

On February 23, 1979, the Minister of Labor, thru then Deputy Minister Amado G. Inciong, assumed jurisdiction over the labor dispute pursuant to Sec. 10 of PD 823, as amended, and directed Assistant Regional Director Ombra T. Jainal to hear and decide the labor dispute and to perform such other acts as maybe necessary to effect its immediate settlement.

On February 27, 1979, the Company filed with the MOLE District Office of Iligan City, Lanao del Norte, a clearance[4] to terminate the services of twenty-two (22) employees,[5] including the herein petitioners. As reasons for such application, the Company alleges that some 1,000 workers from various wood processing plants, administrative and technical services, staged on February 19, 1979 a strike by refusing to work; that the twenty-two (22) named workers who abandoned their jobs for seven (7) consecutive days from February 19 to February 26, 1979 were responsible in one way or another in coercing other workers by stoning, threats and intimidation along the national highway leading to the main gate in utter violation of PD 823 as well as Rule 21 of the Company Rules and Regulations (1977) of the CBA with the Philippine Labor Alliance Council, Local 237; that the strike was staged when the Company was critically preparing for its log export shipment to Japan and processing of plywood, veneer and other lumber products for export on the west and east coast, USA, and as a consequence of the illegal strike, the Company was able to ship and only on February 24, 1979 a partial amount of P1,282,874.40 worth of plywood, veneers and various millworks and will not be able to meet export commitment of the same products worth P2,141,593.70 on March 2, 1979 and 1,500 cubic meters for Japan worth P1,204,500.00 on March 2, 1979; and that this is the second offense committed by the aforementioned workers.

On March 2, 1979, the Minister of Labor and Employment, thru Deputy Minister Inciong, issued an Order,[6] the dispositive portion of which reads as follows:

> "Pursuant to the powers vested by law in the Minister of Labor under Section 10 PD 823, as amended, the following are hereby ordered:
>
> 1. All issuances by Assistant Regional Director Ombra Jainal in the name and by authority of the Minister of Labor in connection with the current walkout staged by Findlay Workers are hereby lifted;
>
> 2. Management is hereby ordered to pay the payroll covering the periods January 16-31 and February 1-15, 1979 not later than March 6, 1979; and
>
> 3. All striking employees are hereby ordered to return to work and management to accept them under the same terms and conditions prevailing before the walkout, and resume operations not later than the first working hour of March 5, 1979. Management is hereby granted authority to replace striking workers who fail to return to work on aforementioned deadline.
>
> SO ORDERED."

The following day, or on March 3, 1979, the Company filed another clearance[7] to terminate the services of nineteen (19)[8] more of its employees for reasons substantially the same as the first clearance application except the allegation that the 19 named workers abandoned their jobs for the past ten (10) consecutive days from February 19, 1979 to March 1, 1979.

The workers jointly filed on March 10, 1979 their consolidation opposition to the clearance application.

For failure of the parties to carry out the order of March 2, 1979 directing the Company, on one hand to pay the salaries of the workers

covering January 16-31 and February 1-15, 1979 payroll and to resume operation on March 5, 1979, and on the other hand, the workers to return to work, Deputy Minister Inciong was prompted to call the parties for a conference.

At the conference held on March 12, 1979, the workers, thru counsel, claimed that they failed to abide by the order because they were required to sign a document allegedly admitting guilt on the walkout. The company countered that the said requirement is part of the standard operating procedure and does not in any way constitute an acceptance of guilt.[9]

After consultation with the parties, Deputy Minister Amado Inciong issued an Order[10] on March 13, 1979, the dispositive portion of which reads:

> "1. The Minister of Labor assumes jurisdiction under Section 10 of PD 823, as amended, over all pending and subsequent issues in connection with the strike staged on February 19, 1979 to date.
>
> 2. All striking workers are hereby ordered to return to work and management to accept them under the same terms and conditions prevailing before the walkout without requiring them to sign any document whatsoever and to normalize operations within forty-eight (48) hours, from receipt of this Order, without prejudice to any action that the parties may pursue to protect their interests.
>
> 3. Striking workers are hereby warned not to take the law into their hands and to follow the procedure established under the law. Any repetition of such act will be dealt with severely in accordance with law.
>
> 4. Management is hereby warned to comply with its obligations under the law and pay its employees regularly in accordance with the Collective Agreement.
>
> 5. Parties are hereby required to submit their position papers within ten (10) days from receipt of this Order.

6. This Office shall immediately conduct a hearing to determine the rights and obligations of the parties.

7. Parties are hereby enjoined to maintain the status quo until final resolution of all the issues in this case.

SO ORDERED."

The Company filed its position paper on August 8, 1979; the workers, on September 5, 1979.

Subsequently, on September 25, 1979, the Ministry of Labor and Employment, pursuant to the order dated March 13, 1979, issued a Memorandum Order directing arbiter Bach M. Macaraya to proceed to Iligan City to hear the case.

Accordingly, arbiter Bach M. Macaraya set for hearing MOLE Case No. 003-79 on October 8, 1979 at 10:00 a.m. with notice to the parties dated September 26, 1979. Atty. Romeo D. Maata, counsel for the workers, received said notice only in the afternoon of October 8, 1979. Nevertheless, aside from said notice, Atty. R. Maata also received a telegram before the date of the scheduled hearing requiring him to appear at the District Office in Iligan City on October 8, 1979.

Although earlier scheduled to appear on October 8, 1979 before the defunct Court of First Instance in another case, entitled "Findlay Millar Timber Company vs. Salvador Andales, et al" Atty. Romeo Maata went to the District Office of the MOLE in the morning of October 8, 1979 and was informed that the telegram was for the hearing of MOLE Case No. 00379. Since the telegram made no specific reference to MOLE Case No. 003-79, Atty. Romeo Maata objected to the said scheduled hearing for lack of proper notice. He was, however, later prevailed upon to enter into a Stipulation of Facts.

Thereafter, arbiter Bach M. Macaraya set the continuation of the hearing of MOLE Case No. 003-79 the following day, October 9,1979. Atty. Romeo Maata again objected since he had to attend another hearing previously calendared that same day, October 9, 1979, as counsel for Findlay workers, in a related case (BLR Case No. 2309-

79) entitled “Findlay Workers vs. Philippine Labor Alliance Council” scheduled in the morning of that same day. Against his objections, he finally agreed to October 9, 1979 hearing the exact time of which is not specified in the records but presumably in the afternoon thereof because BLR Case No. 2309-79 was set in the morning of that same day.

As scheduled, the hearing in the related case, BLR Case No. 2309-79 (Findlay Workers vs. Philippine Labor Alliance Council) began in the morning but, for lack of time, was continued in the afternoon.

On that same afternoon of October 9, 1979, arbiter Bach Macaraya ordered the start of the hearing in the instant case, MOLE Case No. 003-79. Since the start of the hearing conflicted with the hearing in BLR Case No. 2309-79, Atty. Romeo Maata objected thereto because the start of said proceedings was earlier than the time agreed upon by the parties, thus, inevitably disrupting the hearing in the related case, BLR Case No. 2309-79.

At any rate, after hearing (the incidents therein are the subject of the controversy in the instant case), respondent Minister of Labor and Employment thru Deputy Minister A. Inciong, acting on the recommendation of the arbiter, rendered on October 18, 1979 his Decision[11] which, among others, declared that out of the forty-one (41) workers sought to be terminated in the Company’s Clearance Application, only ten (10) [petitioners] appeared to be the instigators of the strike pointing out that a strike of such magnitude lasting from February 19 to March 13, 1979 cannot be possible without organizers, specially because the workers refused to work despite two (2) “Return to Work” orders, and concluded that the strike by the workers is illegal. The decretal portion of the decision reads as follows:

> “WHEREFORE, parties are sternly warned to abide by the provisions of law. Any repetitions of the acts committed will be dealt with severely in accordance with law.
>
> The strike staged by the workers on February 20, 1979 is hereby declared illegal and clearance to terminate the following employees granted:

1. Bacus, Henry
2. Gac-ang, Godofredo
3. Coyno, Calixto
4. Dangga, Maximo
5. Flores, Salvador
6. Fuentes, Victor
7. Lacquio, Santiago
8. Fuentes, Luz
9. Gajo, Eleodoro
10. Genilla, Juanito

Application for clearance to terminate the other employees is hereby denied for lack of merit.

SO ORDERED."

The motion for reconsideration of the said decision having been denied (Order of March 10,1981) the ten (10) workers now come to this Court through the instant Petition For *Certiorari* With Preliminary Injunction.

Earlier, or on February 21, 1980, the Company served each of the petitioners herein with a memorandum informing them of the approval of the clearance application to terminate their services and that by reason thereof they were dismissed as of that date.

In the decision now assailed as having been rendered with grave abuse of discretion, the Incidents which transpired on October 9, 1979 hearing before arbiter Bach M. Macaraya as well as the subsequent proceedings in MOLE Case No. 003-79 alleged in the instant petition to be a denial of petitioners' right to due process of law, are narrated in detail by public respondent Minister of Labor and Employment, as follows:

"After the other case was over, the hearing officer immediately proceeded with the hearing. Counsel for respondents manifested that he is unprepared for the hearing and requested that the case be reset to October 24, 1979. Parties were informed that the hearing officer was given only until Saturday October 13, 1979 to finish the hearing of the case and that if the respondents are not prepared to present their witnesses then the hearing may proceed by allowing the complainant company to present its witnesses. Respondents may present their witnesses in the next scheduled hearing. The hearing officer was informed by the counsel for respondents that he will not be

> available until after Friday. The hearing officer suggested Saturday as date of resetting. Counsel for respondents objected on the ground that his forty-one (41) witnesses are working on that day with complainant company and they will not be available on said scheduled hearing. The hearing officer directed the complainant company to allow the said forty-one (41) witnesses to attend the hearing to which applicant company acceded. For no evident reason except the failure to secure resetting to October 24, 1979, counsel for respondents and the respondents walkout in the middle of the hearing. Thus prompting the hearing officer to conduct an ex-parte hearing. The witnesses of complainant were examined by the hearing officer.
>
> On the scheduled hearing on October 13, 1979, respondents failed to appear despite notice."

Petitioners' version[12] of the incidents which, according to them denied them sufficient and wide opportunity to present their evidence and prove their case, are as follows:

> "On the following day, the hearing in BLR Case No. 2309-79 against the union proceeded but for lack of time in the morning it was continued in the afternoon. At this stage, Labor Arbiter Bach M. Macaraya, acting in clear conspiracy with Atty. Allan Macaraya, the hearing officer in BLR Case No. 2309-79 who happened to be his brother, ordered the start of the hearing in MOLE Case No. 003-79, virtually stopping the hearing in BLR Case No. 2309-79 being conducted by his brother. Atty. Allan Macaraya, without the latter's objection and despite our strong insistence to continue the case. The herein counsel strongly objected to this irregular and improper procedure of hearing cases without sufficient notice which was the cause why the hearing could not even start. Thus, it is misrepresentation for then Deputy Minister Inciong, who acted by authority of the Minister of Labor to state in his decision (Annex "G") that the herein counsel and the respondents therein (including petitioners herein) walkout in the middle of the hearing. There is nothing in the records which can substantiate this allegation or finding, the truth of the matter being that as late as five

> o'clock in the afternoon when the hearing could not even start, herein counsel and the respondents therein (including the petitioners herein) went out in order to go home without being able to agree on the next setting. Again, there is nothing in the records of the case which can show that the herein counsel was informed about it or has signed the minutes resetting the hearing of the case to October 13, 1979.
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> x x x
>
> When the workers left except for one who stayed behind, Arbiter Bach M. Macaraya told him that the next hearing would be on October 13, 1979. But when he left, Arbiter Macaraya surreptitiously continued the hearing of the company's witnesses and on the basis of the evidence adduced therein, he made his recommendation to Deputy Minister Inciong."

In a nutshell, petitioners would want to impress upon this Court that the decision of respondent Minister of Labor and Employment which granted the clearance to terminate their employment, as a consequence of their being instigators of the strike declared to be illegal by respondent Minister, was rendered with grave abuse of discretion or without or in excess of its jurisdiction because the basis upon which the questioned decision stand, as disclosed in petitioners' version of the incident, is tainted with procedural infirmity which was in violation of the constitutional guarantee of due process of law as would render the questioned decision null and void.

We agree.

A mere finding of the illegality of a strike should not be automatically followed by wholesale dismissal of the strikers from their employment.[13] What is more, the finding of the illegality of the strike by respondent Minister of Labor and Employment is predicated on the evidence ascertained through an irregular procedure conducted under the semblance of summary methods and speedy disposition of labor disputes involving striking employees.

While it is true that administrative agencies exercising quasi-judicial functions are free from the rigidities of procedure, it is equally well-

settled in this jurisdiction that avoidance of such technicalities of law or procedure in ascertaining objectively the facts in each case should not, however, cause a denial of due process.[14] The relative freedom of the labor arbiter from the rigidities of procedure cannot be invoked to evade what was clearly emphasized in the landmark case of Ang Tibay vs. Court of Industrial Relations[15] that all administrative bodies cannot ignore or disregard the fundamental and essential requirements of due process. As clearly pointed out in Free Employees and Workers Association (FEWA) vs. Court of Industrial Relations,[16] this Court, speaking thru Justice J.B.L. Reyes, stated, thus: "That the Court of Industrial Relations is only quasi-judicial in character, and not bound by strict rules of evidence, does not mean that it can dispense with any and all rules, even the most substantial, and those shown by experience to be essential in arriving at the truth, for the more liberal the practice in admitting testimony, the more imperative the obligation to preserve the essential rules of evidence by which rights are asserted or defended."

The principle of due process furnishes a standard to which governmental action should conform in order to impress it with the stamp of validity. Fidelity to such standard must of necessity be the overriding concern of government agencies exercising quasi-judicial functions. Although a speedy administration of action implies a speedy trial, speed is not the chief objective of a trial.[17] Respect for the rights of all parties and the requirements of procedural due process equally apply in proceedings before administrative agencies with quasi-judicial powers. For, the statutory grant of power to use summary procedures should heighten a concern for due process, for judicial perspective in administrative decision-making, and for maintaining the vision which led to the creation of the administrative office.[18]

We see no cogent reason to deviate from the aforecited principles of law enunciated by this Court in earlier cases. The requirements of procedural due process were not observed in the instant case. Petitioners were not afforded full opportunity to be heard to warrant a drastic consequence like outright dismissal from employment. Procedural due process, requires a hearing before condemnation, with the investigation to proceed in an orderly manner, and judgment to be rendered only after such inquiry.[19]

It is not controverted that the hearing of BLR Case No. 2309-79 (Findlay Workers vs. Philippine Labor Alliance Council) was earlier calendared than that of the instant case, MOLE Case No. 003-79. The labor arbiter should have displayed a more liberal and receptive attitude and greater circumspection in resolving the motion for postponement of counsel for the Findlay Millar Timber workers in both cases, there being no evidence of intent to delay. Justifying such an arbitrary action on the desire for speedy resolution of the labor dispute, is a lame excuse. To deny the workers a reasonable opportunity to be heard on charges of serious violence as allegedly the instigators and leaders of the strike which, undoubtedly, was the prime consideration in the grant of clearance application to terminate only ten (10) workers out of forty-one (41) sought to be terminated by the Company. At any rate, however, Atty. Romeo Maata agreed to October 9, 1979 hearing notwithstanding his scheduled appearance in BLR Case No. 2309-79 in the morning. On October 9, 1979, disagreement ensued, however, as to the start of the hearing in MOLE Case No. 003-79 contrary to what was agreed upon by the parties resulting in a heated discussion resolving nothing prompting the workers to go home as it was already 5:00 o'clock in the afternoon and they have to go back to Kolambugan from Iligan City. Viewing Atty. Maata and the 41 workers' action as a walk-out, labor arbiter Bach Macaraya proceeded to receive the Company's evidence ex-parte and reset the same to October 13, 1979. The failure of Atty. Romeo Maata and the workers to appear on the October 13, 1979 hearing without sufficient notice denied them their right to due process of law. While it is true that the evidence received ex-parte on October 9, 1979 hearing is admissible because Atty. Romeo Maata could have cross-examined the Company's witnesses, it must be noted, however, that it cannot be rightly said that Atty. Romeo Maata and the workers' non-appearance on October 13, 1979 hearing is a waiver of their (petitioners) right to present evidence in refutation of the Company's allegation.

Petitioners' submission find added support from no less than counsel for the public respondents, the Hon. Solicitor General, who, in his Comment stated:

> "Under the circumstances, Arbiter Macaraya may not be faulted for having received private respondent's evidence in the afternoon of October 9, 1979. Atty. Maata agreed to the October 9, 1979 setting and he could not presume its postponement on the ground that he was not ready with his witnesses. He could very well have cross-examined private respondent's witnesses then.
>
> Atty. Maata, however, was not properly notified of the next hearing set on October 13, 1979. While Arbiter Macaraya informed counsel that he (Macaraya) had only until October 13, 1979 to finish hearing the case, Atty. Maata expressly asked for October 24, 1979 as the next hearing date. In other words, there was no agreement to set the hearing for October 13, 1979. In fact, notice of the October 13, 1979 setting was only given to a worker who stayed behind after Atty. Maata and the rest of the workers had left the District Office. While Atty. Maata's conduct in leaving the District Office on October 9, 1979 may be construed as a waiver of the right to cross-examine private respondent's witnesses who were presented on that date, the same cannot be taken as a waiver of the presentation of the workers' evidence as well. Atty. Maata had precisely asked for October 24, 1979 to present the workers' evidence. At all events, any doubts on the point should be resolved in favor of the workers (Article 4, Labor Code of the Philippines; Article 1702, Civil Code of the Philippines). Conformably, the workers' right to be heard was violated, because due process requires notice and opportunity to be heard before judgment is rendered affecting one's person or property (Makabingkil vs. Yatco, 21 SCRA 150; Batangas-Laguna Tayabas Bus Co. vs. Cadio, 22 SCRA 987)."

and recommended that the decision complained of dated October 18,1979 and the order dated March 10, 1981 of respondent Minister of Labor and Employment be set aside, and that petitioners be allowed to present their evidence in MOLE Case No. 003-79.[20]

The labor arbiter should have shown a more perceptive and adequate grasp, even of the minimum of the cardinal requirements of due process of law. As a reminder, it must not be lost sight of that the

legal presumption of regularity in the performance of governmental functions is not applicable, as in the case at bar, where due process was denied the parties.[21]

Aside from resolving the due process question raised by petitioners (workers), an approach essential to arrive at a just decision of the case, more so as in this case, in the face of conflicting versions, is called for at the moment. With that, after a painstaking effort to look deeper into the facts of the instant case, We find that the decision of the respondent Minister of Labor and Employment, thru Deputy Minister Amado Inciong, did not reflect adherence to authoritative pronouncements of this Court on matters relating to the right of the workers to strike. Evidently, there appears in the decision unsympathetic attitude towards the workers' right to strike as a legitimate expression of a valid grievance against the management resorted to for their mutual aid and protection. What is worse, the clearance application to terminate the employment of the ten (10) workers, now petitioners, was granted on the basis of a finding that the ten (10) workers were the instigators and leaders of the strike lasting from February 19 to March 13, 1979 allegedly marred by acts of violence such as the stoning of the Company power plant, coercing, and threats to prevent non-striking workers from reporting for work.

Affixing the stamp of illegality to the strike on the ground that it was marred by acts of violence committed by the workers, is to Us an unrealistic and outmoded view of the right to strike. From all indications, under the facts and circumstances of the instant case, staging such a concerted action by not reporting for work, as in the case at bar, may be viewed as one inspired by good faith. In Shell Oil Workers' Union vs. Shell Company of the Philippines Ltd.,[22] the facts therein indicate a greater degree of violence, this Court, speaking thru Justice Enrique M. Fernando, now Chief Justice, held that not every form of violence suffices to affix the seal of illegality on a strike or to cause the loss of employment by the guilty party. It was stated therein, thus:

> "A strike otherwise valid, if violent in character, may be placed beyond the pale. Care is to be taken, however, especially where an unfair labor practice is involved, to avoid stamping it with illegality just because it is tainted by such acts. To avoid

> rendering illusory the recognition of the right to strike, responsibility in such a case should be individual and not collective. A different conclusion would be called for, of course, if the existence of force while the strike lasts is pervasive and widespread, consistently and deliberately resorted to as a matter of policy. It could be reasonably concluded then that even if justified as to ends, it becomes illegal because of the means employed."

Even on the assumption that the illegality of the strike is predicated on its being a violation of the ban or prohibition of strikes in export-oriented industries, lack of notice-to-strike, and as a violation of the no-strike clause of the CBA, still, the automatic finding of the illegality of the strike finds no authoritative support in the light of the attendant circumstances. As this Court held in Cebu Portland Cement Co. vs. Cement Workers Union,[23] a strike staged by the workers, inspired by good faith, does not automatically make the same illegal. In Ferrer vs. Court of Industrial Relations,[24] the belief of the strikers that the management was committing unfair labor practice was properly considered in declaring an otherwise premature strike, not unlawful, and in affirming the order of the Labor Court for the reinstatement without backwages of said employees.

In the instant case, it is not disputed that, indeed, the Company did not pay the salaries of the workers for one and a half months, more or less. Such act of the Company broke the patience of the workers and those who depended on them for support and daily subsistence. On the other hand, the act of the workers in demanding a valid grievance for the payment of their salaries is inspired by their honest belief that the Company was committing acts inimical to their interests relative to wages which, basically, is a violation of the CBA existing between the parties.

At the very least, respondent Minister of Labor and Employment should have viewed the strike as premature following the cases of Cebu Portland Cement Co., Ferrer and Shell Oil Workers Union. The ruling laid down in the three aforecited cases was reiterated in Almira vs. B.F. Goodrich Phils., Inc.,[25] a 1974 case, that the strike should have been viewed with a little less disapproval and even if declared illegal, need not have been attended with such a drastic consequence

as termination of employment relationship. This is so because, according to the Court, of the security of tenure provision under the Constitution. The Court stated, thus:

> "It would imply at the very least that where a penalty less punitive would suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe. It is not only because of the law's concern for the workingman. There is, in addition, his family to consider. Unemployment brings untold hardships and sorrows on those dependent on the wage-earner. The misery and pain attendant on the loss of jobs then could be avoided if there be acceptance of the view that under all the circumstances of this case, petitioners should not be deprived of their means of livelihood. Nor is this to condone what had been done by them. For all this while, since private respondent considered them separated from the service, they had not been paid. From the strictly juridical standpoint, it cannot be too strongly stressed, to follow Davis in his masterlywork, Discretionary Justice, that where a decision may be made to rest on informed judgment rather than rigid rules, all the equities of the case must be accorded their due weight. Finally, labor haw determinations, to quote from Bultmann, should be not only secundum rationem but also secundum caritatem."

In view however of the pronouncement in Shell Oil Workers' Union vs. Shell Company of the Phils., Ltd., supra that if the existence of force (acts of violence) while the strike lasts is not pervasive and widespread, nor consistently and deliberately resorted to as a matter of policy, responsibility for serious acts of violence should be individual and not collective, We deem it proper under the circumstances that the charges of serious acts of violence imputed against the herein petitioners (10) workers must be heard anew affording the petitioners all the opportunity to air their side in accordance with the requirements of due process of law. Pending further proceedings and/or hearing of the serious acts of violence imputed against the petitioners, the Company should reinstate them to their former positions without loss of seniority rights and other privileges.

WHEREFORE, the Petition is hereby **GRANTED**. The decision of the Ministry of Labor and Employment dated October 18, 1979 is declared **NULL** and **VOID** and hereby **SET ASIDE**. Respondent Minister of Labor and Employment is hereby ordered to conduct a hearing in MOLE Case No. 003-79 on charges of serious acts of violence against the petitioners giving them the opportunity to be heard and present their evidence. Pending resolution of the aforesaid case on the merit, respondent Company is hereby ordered to reinstate the ten (10) petitioners herein to their former positions without loss of seniority rights and privileges.

SO ORDERED.

Makasiar, Aquino, Guerrero, Abad Santos and Escolin, *JJ.*, concur.
Concepcion, Jr., *J.*, took no part.

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[1] Page 67, Rollo.
[2] Page 98, Rollo.
[3] Page 3, Memorandum for Private Respondent, Page 217, Rollo.
[4] Annex "A", Petition, Page 27, Rollo.
[5] Bacus, Henry; Bongosin, Arturo; Coyno, Calixto; Coyno Pedro; Dangga, Maximo; Fuentes, Luz; Fuentes, Victor; Gajo, Eleodoro; Pabatao, Fernando; Pabatao, Florecito; Maglangit, Gregorio; Sufficiencia, Enrique; Abing, Gaudioso; Blanca, Dionisio; Minion, Antonio; Dequiñon, Luis, Gac-ang, Godofredo; Gac-ang, Arsenia; Flores, Salvador; Genilla, Juanito; Lacquio, Santiago; Tabalbag, Anatalio.
[6] Page 31, Rollo.
[7] Annex "B", Petition, Page 29, Rollo.
[8] Jumawan, Pacifico, Beljot, Arturo; Sanaga, Bienvenido; Maape, Ruben; Realse, Samson; Cortes, Rudolfo; Palaca, Gerardo; Alvios, Ben; Vivero, Ealex; Loreto, Salvador; Aranduque, Virgilio; Bastillada, Alberto; Dagondon, Eddie; Gabatan, Romulo; Ligue, Rogelio; Aying, George; Momay, Roberto; Tion, Tirso; Santisas, Leonardo.
[9] Annex "D", Petition, Page 32, Rollo.
[10] Ibid.
[11] Page 67, Rollo.
[12] Page 14, Petition; Page 16, Rollo.
[13] Almira vs. B.F. Goodrich Phils. Inc. 58 SCRA 120 (1974); Shell Oil Workers' Union vs. Shell Co. of the Phils. Ltd., 39 SCRA 276 (1971); Cebu Portland Cement Co. vs. Workers Union, 25 SCRA 504 (1968); Ferrer vs. CIR, et al., 17 SCRA 352 (1968).

[14] PMIU vs. Court of Industrial Relations, 60 SCRA 287.
[15] 69 SCRA (1940).
[16] 14 SCRA 781.
[17] Amberti vs. Court of Appeals, 89 SCRA 240.
[18] Baguio Country Club Corporation vs. National Labor Relations Commission, 118 SCRA 557.
[19] Montemayor vs. Araneta University Foundation, 77 SCRA 321.
[20] Page 18, Comment of Solicitor General.
[21] Beriña vs. Philippine Maritime Institute, 117 SCRA 581.
[22] 39 SCRA 276.
[23] 25 SCRA 504.
[24] 17 SCRA 352.
[25] 58 SCRA 120.