

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
EN BANC**

**BENGUET CONSOLIDATED, INC.,  
STANLEY WILLIMONT, EUGENE  
KNEEBONE, C.W. HEROLD, A.P.  
DAVIDSON, G.N. WRIGHT, O.M.  
WESTERFIELD,**

***Petitioners,***

***-versus-***

**G.R. No. L-25471  
March 27, 1968**

**BCI EMPLOYEES & WORKERS UNION-  
PAFLU and DONACIANO S. ANDRADA  
and the COURT OF INDUSTRIAL  
RELATIONS,**

***Respondents.***

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**DECISION**

**BENGZON, J.:**

On May 3, 1963, respondent labor union and Donaciano Andrada filed an unfair labor practice charge in the Court of Industrial Relations against petitioner company alleging that the latter unduly discriminated against respondent Andrada, one of its employees, with regard to his status and conditions of employment in violation of Sec. 4(a) (4) of Republic Act 875.

After investigating the charge, the acting prosecutor of the Court filed on September 4, 1963, the formal complaint against petitioners company and some of its officials. The principal averment in the complaint was<sup>[1]</sup> —

“That in the year 1954, complainant Donaciano Andrada was promoted to the position of Invoice Processing Clerk, but respondents refused to implement his wage scale as embodied in the several collective bargaining agreements between the Benguet Balatoc Workers Union, the complainant labor organization and the company, starting 1954, on account of:

“(a) His militant union activities;

“(b) his persistent refusal to disaffiliate from complainant union;

“(c) his petitions for the betterment of his co-employees for which he was discriminated by the company;”

Petitioners filed their answer on September 28, 1963 denying the alleged discrimination against respondent Andrada and the alleged unjust refusal on their part to implement the wage scale under the Collective Bargaining Agreements.

Issues having been joined, trial was conducted. On March 23, 1965, Associate Judge Amando Bugayong before whom the hearings were made, rendered decision finding petitioners guilty of unfair labor practice based on the following findings of fact:<sup>[2]</sup> “Respondent Benguet Consolidated, Inc., is a domestic corporation engaged in the mining industry with respondents Stanley Willimont, Eugene Kneebone, C.W. Herold, G.N. Wright, O.M. Westerfield, A.P. Davidson and William Johnson as its officers. Complainant BCI Employees and Workers Union (PAFLU) is a legitimate labor union while complainant Donaciano Andrada is a member thereof.

“Prior to December 19, 1954, complainant Andrada was a payroll clerk in the respondent Company with a salary of P3.24 per day. On August 28, 1954, he and several others petitioned

the respondent company that they be given the rates of pay as prescribed in the collective bargaining contract. It appears that at that time there was an existing collective bargaining contract between the respondent company then operating under the trade name Benguet-Consolidated Mining Company and Balatoc Mining Company and the Benguet Balatoc Workers Union of which complainant Andrada was then a member. Said contract (Exh. "A") provides for the wage scales of the workers and pursuant thereto, the wage scale of a payroll clerk, first class category, was P3.56 per day (Exh. "A-1"). Thus, complainant Andrada, together with several others, requested for adjustment of their wages (Exh. "B") and the respondent company, in compliance thereto, made the necessary salary adjustment with the exception of complainant Andrada who, although he was reclassified from clerk second class to clerk first class, did not receive any corresponding increase in his pay (Exh. "1").

"Then, on or about January 1, 1955, he was transferred from the Accounting Department, clerk first class, to the Purchasing Department also as clerk first class with the same salary of P97.20 per month or P3.24 per day (Exh. "E"). His assignment in the Purchasing Department was recommended by S.J. Willimont, his former department head, and C.W. Herold, head of the Purchasing Department, and approved by A.P. Davidson, General Superintendent. He was assigned to replace Ramon M. Alvia, a bodeguero performing invoice clearing duties who resigned December 19, 1954 and who was receiving a salary of P4.60 per day (Exh. "E-1").

"To support his claim that he was discriminated against because of his militant union activities, complainant Andrada testified that sometime after he, together with several others, petitioned the respondent company for a reclassification and re-adjustment of their wages, as first class clerk (Exh. "B"), he brought the matter to the attention of his union, then the Benguet-Balatoc Workers Union and accordingly the latter, through Braulio Oximana, union steward, wrote a letter dated October 6, 1954 (Exh. "F") to the respondent company requesting information as to the action taken by said

respondent on the aforesaid petition for reclassification. He also testified that on or about October 8, 1954, he had occasion to talk with Stanley Willimont, then his department head, and the latter told him that had he not brought his petition to the union, his future would have been better; and that as a matter of fact he was the only employee who did not receive any adjustment in his salary although he was placed in the first class clerk category. Complainant Andrada further testified that sometime in 1955 after he was transferred to the Purchasing Department, as replacement of Ramon M. Alvia, a 'bodeguero' performing invoice clearing duties and who was receiving a salary of P4.60 per day, he received the same salary as payroll clerk which was P97.20 per month or P3.24 per day. So, he approached C.W. Herold, head of the Purchasing Department, and complained to the latter about his situation hoping that he will be extended the proper wage appertaining to the position of 'bodeguero' as provided in the collective bargaining contract, but nothing came out of his request.

"He also declared that on or about August 26, 1957, on the occasion of a grievance meeting concerning the adjustment of his wages, Eugene Kneebone one of the respondents herein, said to him, 'I am spending much of my time for your complaint. My time is precious. I tell you that as long as I am still connected with Benguet Consolidated, Inc., this office cannot give you any change of classification whatsoever'; That Mr. Kneebone further said, 'By representing your grievance to the union, you are cutting your neck entirely, and I tell you to think it over or retract your complaint'; that complainant again met Mr. Kneebone who said to him, 'The question with you is, you are too vocal of your union activities. Had you shut your mouth, your case should not have happened like that.' He also testified that sometime in 1958, he was elected district governor for Balatoc and on July 28, 1958 the union's counsel sent a letter to the respondent company informing the latter of the appointment of complainant Andrada as union steward for Balatoc (Exh. "D"); that as district governor and steward of the union, he was most often alone in representing the workers in his district; that sometime in 1959, the respondent company offered to transfer him as 'bodeguero' to the Kias Dynamite

Storage area, but the same was intended to take him far from the company where he performs his duties as union district steward. Complainant further testified that sometime in July, 1962, there was an increase of P.24 to all kinds of categories and that he was not benefited by the increase that he asked O.M. Westerfield, his department head, to give him also an increase, but the latter said to him, 'If you will not stop asking or complaining about your rate, Mr. Crosby will step over your head.'"

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Accordingly, petitioners were ordered "to implement the salary scale with respect to the daily wage of complainant Donaciano S. Andrada from 1954 until his wage reaches the level as embodied in the collective bargaining agreements between the Benguet-Balatoc Workers Union, the complainant labor organization, and the respondent company."

Petitioners subsequently moved for reconsideration, which the lower court, en banc, denied although one of the five judges dissented. They then elevated the case to this Court for review by way of certiorari. Pending the appeal and at petitioners' instance, this Court issued preliminary injunction to prevent immediate execution of the judgment.

Petitioners' principal submission, in the first three errors assigned, is that they were held liable for discriminating against respondent Andrada in 1954 on account of militant union activities which, however, were conducted in 1958. This is erroneous on two counts. First, what was charged was not discrimination committed in 1954 alone but rather continuing acts of discrimination committed "starting 1954" as alleged in par. 3 of the complaint for unfair labor practice. The charge of discrimination, consisting in petitioners' refusal to implement the proper salary scale as to respondent Andrada is adequately supported by the following findings of the court a quo. In August, 1954, Andrada's category was changed to clerk first class but he received no salary adjustment unlike the other employees. In 1955, after he was transferred to the Purchasing Department and was assigned to perform the work done by one

Ramon Alvia who held the category of bodeguero (with a higher pay rate) respondent Andrada still received no corresponding pay increase. In July, 1962, there was a general pay hike but Andrada was not benefitted.

Second, the militant union activity involved is not Andrada's having been elected as Union District Governor and Steward and his actions as such, but rather Andrada's having sought the help of his union in pursuing what he believed was his right to a salary adjustment. It should be noted that the damaging statements on this score<sup>[3]</sup> imputed to co-petitioners Stanley Willimont and Eugene Kneebone by respondent Andrada in his testimony to which the court a quo gave credence, were never denied or controverted by them. And it is unquestionable that the seeking of the union's help by one of its members in connection with the latter's correct wages constitutes proper union activity.

The claim that respondent Andrada was guilty of laches is without merit. The discriminations, from 1954 to 1962, were continuing. Moreover, as counsel for respondents correctly points out, the unfair labor practice charge was filed only in 1963 because respondent's complaint was first coursed thru a series of conciliation meetings between the union and petitioner company.

In this connection, petitioner's final submission that respondent's complaint had already been satisfactorily settled in the grievance proceedings as the latter himself admitted is not borne out in the portion of Andrada's testimony reproduced in Annex D of the petition. What could be inferred therefrom is that respondent Andrada, who was on a monthly wage basis, refused to be classified on a daily wage basis. But as the lower court found,<sup>[4]</sup> respondent was justified in so refusing since an employee on a daily wage basis gets less than one on the monthly basis assuming the pay rate to be the same. This finding of the court is based on the admission of co-petitioner Willimont, one of petitioner company's own officials.

In fine, this Court finds that the findings of fact below furnish satisfactory answers to the questions presented here by petitioners, And there is not even a slight suggestion from them that these

findings are not based on substantial evidence. Hence, said findings are controlling.

**WHEREFORE**, the judgment sought to be reviewed is hereby affirmed and the preliminary injunction previously issued is hereby revoked and set aside. Costs against petitioners. So ordered.

**Reyes, Acting C.J., Dizon, Makalintal, Zaldivar, Sanchez, Angeles and Fernando, JJ., concur.**  
**Castro, J., did not take part.**  
**Concepcion, C.J., is on leave.**

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[1] Complaint, par. 3, Rollo, p. 33.

[2] Rollo, pp. 40-44.

[3] See underscored portions of court a quo's findings of fact, supra.

[4] Annex "E" of Petition, Rollo, p. 45.