SUPREME COURT
SECOND DIVISION

CALIFORNIA MANUFACTURING CORPORATION,
***Petitioner*,**

-versus-

G.R. No. 97020
June 8, 1992

THE HONORABLE UNDERSECRETARY OF LABOR BIENVENIDO E. LAGUESMA ABD FEDERATION OF FREE WORKERS (FFW), CALIFORNIA MFG. CORP. SUPERVISORS UNION CHAPTER (CALMASUCO),
***Respondents*.**
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D E C I S I O N

PARAS, *J.*:

This is a Petition for Review on *Certiorari* with Prayer for Preliminary Injunction and/or Temporary Restraining Order seeking to annul and

set aside the (a) resolution[*] of the Department of Labor and Employment dated October 16, 1990 in OS-A-10-283-90 (NCR-OD-M-90-05-095) entitled "In Re: Petition for Certification Election Among the Supervisors of California Manufacturing Corporation, Federation of Free Workers (FFW) California Mfg. Corp. Supervisors Union Chapter (CALMASUCO), petitioner-appellee, California Manufacturing Corporation, employer-appellant" which denied herein petitioner's appeal and affirmed the order of Med-Arbiter Arsenia Q. Ocampo dated August 22, 1990 directing the conduct of a certification election among the supervisory employees of California Manufacturing Corporation, and (b) the Order[**] of the same Department denying petitioner's motion for reconsideration.

As culled from the records, the following facts appear undisputed:

On May 24, 1990, a petition for certification election among the supervisors of California Manufacturing Corporation (CMC for brevity) was filed by the Federation of Free Workers (FFW) — California Manufacturing Corporation Supervisors Union Chapter (CALMASUCO), alleging inter alia, that it is a duly registered federation with registry certificate no. 1952-TTT-IP, while FFW-CALMASUCO Chapter is a duly registered chapter with registry certificate no. 1-AFBI-038 issued on May 21, 1990 (Annex "A", Rollo, p. 63); that the employer CMC employs one hundred fifty (150) supervisors; that there is no recognized supervisors union existing in the company; that the petition is filed in accordance with Article 257 of the Labor Code, as amended by Republic Act No. 6715; and that the petition is nevertheless supported by a substantial number of signatures of the employees concerned (Annexes "E" and "F", Ibid., pp. 28-29).

In its answer, CMC, now petitioner herein, alleged among others, that the petition for the holding of a certification election should be denied as it is not supported by the required twenty-five percent (25%) of all its supervisors and that a big number of the supposed signatories to the petition are not actually supervisors as they have no subordinates to supervise, nor do they have the powers and functions which under the law would classify them as supervisors (Annex "D", Ibid., p. 25).

On July 24, 1990, FFW-CALMASUCO filed its reply maintaining that under the law, when there is no existing unit yet in a particular bargaining unit at the time a petition for certification election is filed, the 25% rule on the signatories does not apply; that the "organized establishment" contemplated by law does not refer to a "company" per se but rather refers to a "bargaining unit" which may be of different classifications in a single company; that CMC has at least two (2) different bargaining units, namely, the supervisory (unorganized) and the rank-and-file (organized); that the signatories to the petition have been performing supervisory functions; that since it is CMC which promoted them to the positions of supervisors, it is already estopped from claiming that they are not supervisors; that the said supervisors were excluded from the coverage of the collective bargaining agreement of its rank-and-file employees; and that the contested signatories are indeed supervisors as shown in the "CMC Master List of Employees" of January 2, 1990 and the CMS Publication (Annex "G", Ibid., p. 30).

On August 22, 1990, the Med-Arbiter issued an order, the decretal portion of which reads:

> "WHEREFORE, premises considered, it is hereby ordered that a certification election be conducted among the supervisory employees of California Manufacturing Corporation within twenty (20) days from receipt hereof with the usual pre-election conference of the parties to thresh out the mechanics of the election. The payroll of the company three (3) months prior to the filing of the petition shall be used as the basis in determining the list of eligible voters.
>
> 'The choices are:
>
> '1. Federation of Free Workers (FFW) — California Manufacturing Corporation Supervisors Union Chapter (CALMASUCO); and
>
> '2. No union.'
>
> "SO ORDERED." (Annex "H", Ibid., p. 33)

CMC thereafter appealed to the Department of Labor and Employment which, however, affirmed the above order in its assailed resolution dated October 16, 1990 (Annex "B", Ibid., p. 18). CMC's subsequent motion for reconsideration was also denied in its order dated November 17, 1990 (Annex "A", Ibid., p. 15), hence, his petition.

The issues are presented by CMC in this wise:

> "a) whether or not the term "unorganized establishment" in Article 257 of the Labor Code refers to a bargaining unit or a business establishment;
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> "b) whether or not non-supervisors can participate in a supervisor's certification election; and
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> "c) whether or not the two (2) different and separate plants of herein petitioner in Parañaque and Las Piñas can be treated as a single bargaining unit."

The petition must be denied.

The Court has already categorically ruled that Article 257 of the Labor Code is applicable to unorganized labor organizations and not to establishments where there exists a certified bargaining agent which had previously entered into a collective bargaining agreement with the management (Associated Labor Unions [ALU] vs. Calleja, G.R. No. 85085, November 6, 1989, 179 SCRA 127) (Underscoring supplied). Otherwise stated, the establishment concerned must have no certified bargaining agent (Associated Labor Unions [ALU] vs. Calleja, G.R. No. 82260, July 19, 1989, 175 SCRA 490). In the instant case, it is beyond cavil that the supervisors of CMC which constitute a bargaining unit separate and distinct from that of the rank-and-file, have no such agent, thus they correctly filed a petition for certification election thru union FFW-CALMASUCO, likewise indubitably a legitimate labor organization. CMC's insistence on the 25% subscription requirement, is clearly immaterial. The same has been expressly deleted by Section 24 of Republic Act No. 6715 and is presently prescribed only in organized establishments, that is, those with existing bargaining agents. Compliance with the said requirement need not even be established with absolute certainty.

The Court has consistently ruled that "even conceding that the statutory requirement of 30% (now 25%) of the labor force asking for a certification election had not been strictly complied with, the Director (now the Med-Arbiter) is still empowered to order that it be held precisely for the purpose of ascertaining which of the contending labor organizations shall be the exclusive collective bargaining agent (Atlas Free Workers Union (AFWU)-PSSLU Local vs. Noriel, G.R. No. L-51905, May 26, 1981, 104 SCRA 565). The requirement then is relevant only when it becomes mandatory to conduct a certification election. In all other instances, the discretion, according to the rulings of this Tribunal, ought to be ordinarily exercised in favor of a petition for certification (National Mines and Allied Workers Union (NAMAWU-UIF) vs. Luna, et al., G.R. No. L-46722, June 15, 1978, 83 SCRA 607).

In any event, CMC as employer has no standing to question a certification election (Asian Design and Manufacturing Corporation vs. Calleja, et al., G.R. No. 77415, June 29, 1989, 174 SCRA 477). Such is the sole concern of the workers. The only exception is where the employer has to file the petition for certification election pursuant to Article 259 (now 258) of the Labor Code because it was requested to bargain collectively. Thereafter, the role of the employer in the certification process ceases. The employer becomes merely a by-stander. Oft-quoted is the pronouncement of the Court on management interference in certification elections, thus:

> "On matters that should be the exclusive concern of labor, the choice of a collective bargaining representative, the employer is definitely an intruder. His participation, to say the least, deserves no encouragement. This Court should be the last agency to lend support to such an attempt at interference with purely internal affair of labor." (Trade Unions of the Philippines and Allied Services (TUPAS) vs. Trajano, G.R. No. L-61153, January 17, 1983, 120 SCRA 64 citing Consolidated Farms, Inc. vs. Noriel, G.R. No. L-47752. July 31, 1978, 84 SCRA 469, 473).

PREMISES CONSIDERED, the Petition is **DISMISSED** for utter lack of merit.

SO ORDERED.

Narvasa, *C.J.*, Padilla and Regalado, *JJ.*, concur.
Nocon, *J.*, is on leave.

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[*] Penned by Undersecretary Bienvenido E. Laguesma.
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