

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**GEORGE & PETER LINES, INC.,
*Petitioner,***

-versus-

**G.R. No. 51602
January 17, 1985**

**ASSOCIATED LABOR UNIONS (ALU),
HON. CARMELO NORIEL, DIRECTOR,
BUREAU OF LABOR RELATIONS,
MINISTRY OF LABOR,**

Respondents.

X-----X

DECISION

MELENCIO-HERRERA, J.:

Petitioner George and Peter Lines, Incorporated, is a domestic corporation engaged in shipping, while respondent Associated Labor Unions (ALU), is a legitimate labor organization duly registered with the Ministry of Labor.

On July 6, 1978, a Petition for Direct Certification was filed by respondent ALU with Region VII, Cebu City, of the Ministry of Labor, praying that it be certified as the sole and exclusive bargaining representative of all the rank and file employees of petitioner corporation there being no labor union organized thereat.

Petitioner corporation opposed the petition stating that respondent Union does not represent the majority of the employees concerned; and that more than 80% of the licensed and unlicensed crew of its vessels claim that they are not members of any union and have no desire to join any. It then filed on August 17, 1978, a Petition for Certification Election to determine once and for all, whether the employees concerned wanted respondent ALU to be their sole bargaining representative.

On August 25, 1978, the Med-Arbiter issued an Order directly certifying respondent ALU as the sole and exclusive bargaining agent of the licensed and unlicensed employees of petitioner corporation, opining that the majority membership status of any union is determined before or at the time of filing of the petition, and not thereafter, otherwise, the union can be ousted anytime.

Petitioner corporation moved for reconsideration alleging that the employees concerned, consisting of about 80%, denied their membership with respondent Union, and that a certification election should be called in the interest of fairness and justice.

The entire records of the case were forwarded to the Director of the Bureau of Labor Relations. On February 5, 1979, the BLR Director modified the Order of August 25, 1978 by directing a certification election among the rank and file employees of petitioner corporation. Reconsideration sought by respondent Union was denied by the BLR Director on May 31, 1979, on the ground that there exists a doubt regarding the majority status of respondent ALU because of the withdrawal of membership by the workers, and directing the Labor Relations Division of the Regional Office of origin, to hold a pre-election conference, and to conduct the certification election.

Respondent Union, in its Second Motion for Reconsideration, argued that public respondent erred in finding its majority status doubtful as the same was proven during the hearing of the case before the Med-Arbitrator.

The BLR Director, in its questioned Decision of August 13, 1979, reconsidered its Resolution of May 31, 1979, and directly certified respondent ALU as the sole bargaining agent of all the rank and file employees of petitioner corporation. Thus, this Petition for Certiorari wherein petitioner seeks to set aside the said Decision, posing the following issues.

“(1) Did the Director of the Bureau of Labor Relations of the Ministry of Labor commit grave abuse of discretion by abruptly reversing his two previous resolutions for the holding of a certification election?”

“(2) Are petitioner’s employees entitled to choose their sole and exclusive bargaining representative with petitioner thru a certification election? and

“(3) Is petitioner entitled to file the petition for certification election?”

It is not disputed that after the filing of the petition for direct certification by respondent Union, a written manifestation duly signed by about 80% of the employees concerned, retracting their membership from said union, was submitted by them to the MOLE. Respondent Union submits, however, that the employees were merely pressured by management into withdrawing their membership. On the other hand, petitioner corporation argues that the retraction by the employees cast a serious doubt on the alleged majority representation of the Union. In ultimately resolving the issue in the Union’s favor, public respondent held that the withdrawal of membership from the Union subsequent to the filing of the petition for direct certification did not affect the same nor did it divest it of its jurisdiction to take cognizance of the petition.

We find for petitioner.

The employees have the constitutional right to choose the labor organization which it desires to join.^[1] The exercise of such right would be rendered nugatory and ineffectual if they would be denied the opportunity to choose in a certification election, which is not a litigation, but a mere investigation of a non-adversary character,^[2] the bargaining unit to represent them.^[3] The holding of a certification election is a statutory policy that should not be circumvented.^[4]

As the right of respondent Union to represent the employees is seriously put in doubt by the withdrawal of 80% of the membership, which the Union claims to be involuntary, the best forum to determine if there was, indeed, undue pressure exerted upon the employees to retract their membership is in the certification election itself, wherein they can freely express their choice in a secret ballot.^[5] Certification election is the best and most appropriate means of ascertaining the will of the employees as to their choice of an exclusive bargaining representative.^[6] That there are no competing Unions involved should not alter that principle, the freedom of choice by the employees being the primordial consideration besides the fact that the employees can still choose between ALU and No Union. Even if the withdrawals of the employees concerned were submitted after the Petition for direct certification had been filed, the doubt as to the majority representation of the Union has arisen, and it is best, to determine the true sentiment of the employees through a certification election. If respondent Union is confident that it commands the majority of the workers, there is no reason why it should object to the holding of a certification election.

WHEREFORE, the assailed Decision of August 17, 1979 is hereby **SET ASIDE**. The Regional Office concerned of the Ministry of Labor and Employment is hereby directed to cause the holding of a certification election within thirty (30) days from notice.

SO ORDERED.

Teehankee, Plana, Relova, Gutierrez, Jr. and De la Fuente, JJ., concur.

[1] FOITAF vs. Noriel, 72 SCRA 24 [1976].

- [2] Air Line Pilots Association of the Philippines vs. CIR, 76 SCRA 274 [1977].
[3] NAMAWUMIF vs. Estrella, 87 SCRA 84 [1978].
[4] ATU vs. Noriel, 89 SCRA 264 [1979].
[5] FOITAF vs. Noriel, supra.
[6] National Mines & Allied Workers Union vs. Luna, 83 SCRA 607 [1978];
Consolidated Farms, Inc., vs. Noriel, 84 SCRA 469 [1978].

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