CHANROBLES PUBLISHING COMPANY

SUPREME COURT
FIRST DIVISION

ITOGON-SUYOC MINES, INC.,
***Petitioner*,**

-versus-

G.R. No. L-17739
December 24, 1964

JOSE BALDO, SAÑGILO-ITOGON WORKERS UNION and COURT OF INDUSTRIAL RELATIONS,
***Respondents*.**

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D E C I S I O N

ZALDIVAR, *J*.:

This is a Petition for *Certiorari* to Review the Decision of the Court of Industrial Relations in Case No. 50-ULP-PANG, finding the petitioner guilty of unfair labor practices and ordering it to reinstate respondent Jose Baldo to his former work with back wages.

In a complaint dated November 18, 1958, an Acting Prosecutor of the Court of Industrial Relations charged the herein petitioner- employer, Itogon-Suyoc Mines, Inc., and Claude Fertig, its General Superintendent, of having committed unfair labor practices within the meaning of Section 4 (a), paragraphs 1, 4 and 5 of Republic Act No. 875. The complaint substantially alleged that A. Manaois and

Jose Baldo, employees of herein petitioner, were dismissed by said petitioner on June 9, 1957 and March 5, 1958, respectively, because of their membership with the herein respondent Sañgilo-Itogon Workers Union and for having testified against the petitioner in a certification election case involving the employees of the petitioner (Case No. 3-MC-PANG.). The complaint prayed that an order be issued against the herein petitioner to cease and desist from the labor practices complained of and that the complaining employees, A. Manaois and Jose Baldo, be reinstated to their former positions in the mining company without loss of employee benefits and with back wages from the date of their respective dismissal until the date of their actual reinstatement.

The petitioner herein (respondent below), in its answer to the complaint, admitted the fact of the dismissal of the two complaining employees, but alleged that the complaining employees were dismissed for just and lawful causes, namely, "inefficiency, utter disregard and violation of safety rules and regulations established and enforced by the respondent for the protection of the lives of the employees and properties of the respondent company, utter disregard of the company property and poor attendance records."

After hearing, the Court of Industrial Relations, on October 5, 1960, rendered a decision, finding that the charge of unfair labor practice as far as it concerned the complaining employee A. Manaois was not proved and that the dismissal of said employee was just and legal; but as far as the other complaining employee Jose Baldo was concerned, the charge of unfair labor practice was proved and that the dismissal of said employee was unjust and illegal. The Court of Industrial Relations, therefore, ordered the reinstatement of Jose Baldo to his former work with back wages from April 7, 1958, when he was promised re-instatement, up to the day of his actual reemployment.

The petitioner filed a motion for reconsideration of the decision with the Court of Industrial Relations en banc, but said Court, on October 27, 1960, denied the petition for reconsideration. The petitioner has appealed from the decision, and from the order denying the motion for reconsideration, of the Court of Industrial Relations affecting only the case of Jose Baldo. No appeal has been filed regarding the case of A. Manaois.

We have examined the records carefully, and We find that the decision of the Court of Industrial Relations is supported by substantial evidence. We are quoting hereunder pertinent portions of the decision of the lower court which embody its factual findings:

> "From the evidence of record, the following facts are clear. Baldo started working as miner in the respondent company sometime in 1954. He worked continuously therein until February 4, 1958 when he was given a '30-day notice of termination of employment' to the effect that his services will not be needed by the respondent company after March 5, 1958 (Exh. '4'). Baldo refused to acknowledge receipt of said notice when Mowry, mine's superintendent of the company, asked him to sign the same. It appears that Baldo was on 15 days vacation leave with pay immediately prior to his being served his separation notice (Exh. 'C').
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> "The complainant's evidence-tended to prove that Baldo was dismissed by the company because of his membership in the complainant Sañgilo-Itogon Workers Union, a legitimate labor organization; and, for having testified for the said union in Case No. 3-MC-PANG., a certification proceeding involving the employees of the respondent company. Baldo failed to obtain a reinstatement therein.
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> x x x
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> "It is undeniable that Baldo's testimony in Case No. 3-MC-PANG of this Court on April 7, 1958, was favorable to the complainant Sañgilo-Itogon Workers' Union of which he was a member and in some way adverse to the interests of the company. The testimonies of complainant's witnesses are clear that during the hearing of the certification case in Itogon, Gelladoga, plant engineer and former labor relations officer of the respondent company, asked Baldo not to testify therein on the promise that he will be reinstated. Admittedly, the case of Baldo's separation from the respondent company which was pending consideration at that time with the grievance committee of the union and management was immediately

> 'dropped' after Baldo testified in the certification case 'because he (Baldo) brought his case to a rival union of the Itogon Labor Union'. It becomes obvious that Baldo's case was not considered further by the grievance committee because of his testimony against the company in the certification proceeding. An examination of the alleged offense imputed on Baldo previous to his dismissal and which are relied upon by the respondent company (Exhibits '1', '2' and '3') shows that they were not so serious as to warrant his immediate and permanent dismissal. Under the circumstances, it is safe to conclude that Gelladoga, who is a supervisor within the meaning of the Act, really promised to reinstate Baldo to his former work in the company should he desist from testifying in that certification case mentioned above.
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> "Considering everything, we are convinced that because of Baldo's refusal to accede to the demand of his employer not to testify in the certification proceeding mentioned above, his case was 'dropped' by the grievance committee of the union and management, and consequently, he failed to be reinstated in the company."

The petitioner, in this appeal, maintains that it was the Itogon Labor Union that dropped the case of Baldo regarding the 30-day notice of separation because Baldo brought his case to a rival union of the Itogon Labor Union, so that the petitioner should not be charged of unfair labor practice. This contention of the petitioner has no merit.

The evidence shows that Baldo had joined the Sañgilo-Itogon Workers Union, the rival union of the Itogon Labor Union that had a collective bargaining contract with the petitioner, and that Baldo's membership in the Sañgilo-Itogon Workers Union was known to the management of the herein petitioner; that at the time that Baldo was given the 30-day notice or separation from the service there was pending before the Court of Industrial Relations a certification election case which involved the employees of the petitioner, and the certification case was precisely brought about upon petition by the Sañgilo-Itogon Workers Union; that when Baldo was given said notice of separation from the service he brought his case to the grievance committee of the Itogon Labor Union and the management

of the petitioner — said committee being composed of representatives of the Itogon Labor Union and the management of the petitioner — with a view to securing his reinstatement; that the grievance committee withheld action on the case of Baldo; that the case of Baldo was pending before the grievance committee when he was asked by Mansueto Gelladoga, plant engineer and former labor relations officer of the petitioner (he was also former Vice-President of the Itogon Labor Union), not to testify in the hearing of the certification election case so that he would be reinstated to his job; that in spite of Gelladoga's request Baldo testified at the hearing of the certification election case on April 7, 1958, and Baldo's testimony was adverse to the petitioner; and that after Baldo had thus testified his case was dropped by the grievance committee, and he was never reinstated. Considering that Baldo's case was pending before the grievance committee when he was asked by Gelladoga not to testify, and soon after he had testified adversely to the petitioner his case was dropped by the grievance committee, the conclusion is inescapable that the management of the petitioner herein had much to do with the dropping of Baldo's case, and because of the dropping of that case the petitioner never reinstated Baldo to his work. This conclusion is bolstered further by the fact that the petitioner herein had opposed the petition for certification election. The lower court found that Baldo had not committed any serious offense as would warrant his immediate and permanent dismissal. On the other hand, the evidence shows that when Baldo was given that notice of separation from the service he had already joined the Sañgilo-Itogon Workers Union. There is evidence too that Claude Fertig, the General Superintendent of the petitioner, was at the time acting as adviser of the Itogon-Labor Union, the rival union of the Sañgilo-Itogon Workers Union.

We agree with the finding of the Court of Industrial Relations that the petitioner had committed unfair labor practices as contemplated in sub-paragraphs 1, 4, and 5 of sub-section (a) of Section 4 of Republic Act No. 875 (Henares & Sons vs. National Labor Union, G.R. No. L-17535, December 28, 1961; National Fastener Corporation of the Philippines vs. Court of Industrial Relations, etc. G.R. No. L-15834, January 20, 1961).

The petitioner, in this appeal, also contends that the Court of Industrial Relations had gravely abused its discretion when it ordered

the reinstatement of Jose Baldo with back wages. The petitioner points out that it should not be made to pay back wages during the time that this case had been pending. This contention is also without merit. When an employer commits unfair labor practices he should be made to shoulder all the consequences of his unfair acts. The matter of granting back wages or back-pay to an employee that is reinstated is discretionary with the Court of Industrial Relations (Section 5 (c), Republic Act No. 875). This question had already been settled in a line of decisions rendered by this Court (United Employees Welfare Ass'n. vs. Isaac Peral Bowling Alleys, G.R. No. L-10327, Sept. 30, 1958; Union of Philippine Education Co. Employees vs. Philippine Education Co., 91 Phil. 93, 95). We are satisfied that under the circumstances as shown by the records of the present case the Court of Industrial Relations had not abused the exercise of its discretion when it ordered the grant of back wages to respondent Baldo from the date he was promised reinstatement to the day of his actual reinstatement.

WHEREFORE, the decision appealed from is affirmed, with costs against the petitioner.

Bengzon, *C.J.*, Concepcion, Reyes, Barrera, Dizon, Regala, Makalintal and Bengzon, *JJ.*, concur.
Bautista Angelo and Paredes, *JJ.*, took no part.

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