

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**JUDRIC CANNING CORPORATION,
*Petitioner,***

-versus-

**G.R. No. L-51494
August 19, 1982**

**THE HONORABLE AMADO G.
INCIONG, in his capacity as Deputy
Minister of Labor, THE HONORABLE
FRANCISCO L. ESTRELLA, in his
capacity as Director of Region IV,
Ministry of Labor, UNITED LUMBER &
GENERAL WORKERS OF THE
PHILIPPINES (ULGWP), NORMA
PINEDA, LEONILA MORALES,
TERESITA BALMACEDA, VICKY
PEÑALOSA, ADELINA VALENZUELA
and JUANITA REPOSAR,**

Respondents.

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DECISION

CONCEPCION, JR., J.:

Petition for *Certiorari*, with a Prayer for the Issuance of a Writ of Preliminary Injunction or Restraining Order, to Annul and Set Aside

the Order issued by the Regional Director of the Ministry of Labor on November 15, 1978 in Case No. R4-STF — 5515-78, entitled: “United Lumber and General Workers of the Philippines (ULGWP), et al., complainants, versus Judric Canning Corporation, respondents,” which ordered the herein petitioner to reinstate immediately herein private respondents Norma Pineda, Vicky Peñalosa, Leonila Morales, Teresita Balmaceda, Adelina Valenzuela, and Juanita Reposar to their former positions with full backwages from the date of their dismissal up to their actual reinstatement; the Order issued by the respondent Amado G. Inciong on August 3, 1979, which affirmed the aforesaid order of the Regional Director and dismissed the appeal of the herein petitioner; and the Writ of Execution issued in said case on September 24, 1979.

The records show that the herein private respondents Norma Pineda, Vicky Peñalosa, Leonila Morales, Teresita Balmaceda, Adelina Valenzuela, and Juanita Reposar are employees of the petitioner corporation and are members of the United Lumber and General Workers of the Philippines (ULGWP). On August 19, 1978, the said complainants were allegedly not allowed to report for work due to their union activities in soliciting membership in a union yet to be organized in the company and their time cards were removed from the rack. As a result, the said complainants and their labor union filed a complaint for unfair labor practice against the petitioner with Region IV of the Ministry of Labor, seeking the reinstatement of the complainants with full backwages.^[1]

The herein petitioner denied having locked out the complainants and claims that the said complainants failed to report for work and abandoned their positions. The petitioner also denied having knowledge of the union activities of the complainants until August 30, 1978, when it was served notice of a petition for direct certification filed by the complainant union.^[2]

After hearing the parties, or on November 15, 1978, the Regional Director of Region IV of the Ministry of Labor, after finding that the petitioner had dismissed the complainants without valid cause, ordered the petitioner to immediately reinstate the complainants to their former positions with full backwages from the date of their dismissal up to their actual reinstatement.^[3]

The petitioner corporation appealed to the Ministry of Labor,^[4] but its appeal was dismissed for lack of merit on August 3, 1979.^[5] Thereafter, a writ of execution was issued on September 24, 1979.^[6]

Hence, the present recourse. As prayed for, a temporary restraining order, restraining the respondents from enforcing, implementing and/or carrying out the writ of execution dated September 24, 1979, was issued on November 12, 1979.^[7]

1. The petitioner contends that the Regional Director's finding, which was affirmed by the respondent Deputy Minister of Labor, that the petitioner is guilty of unfair labor practice for terminating the services of the respondent union members due to their alleged union activities, is not supported by the evidence of record.

This contention is untenable. The record shows that after the parties had submitted their respective position papers, a hearing was held, at the conclusion of which, the respondent Regional Director found that the private respondents did not abandon their jobs but were dismissed because of their union activities. This is a finding of fact which may not now be disturbed.

Besides, the private respondents immediately filed a complaint for illegal dismissal, seeking their reinstatement, on August 24, 1978, soon after their services were terminated on August 19, 1978. It would be illogical for the private respondents to abandon their work and then immediately file an action seeking their reinstatement.

Moreover, there was no reason at all and none has been suggested by the petitioner, for the private respondents to abandon their work. No employee with a family to support, like the private respondents, would abandon their work knowing fully well of the acute unemployment and underemployment problem and the difficulty of looking for a means of livelihood. As the Solicitor General stated: "To get a job is difficult; to run from it is foolhardy."

But, most of all, the petitioner stated that in spite of its position that the private respondents had abandoned their jobs, it “offered to pay respondent union members severance pay of one (1) month.”^[8] This is a clear admission of the charge of arbitrary dismissal, for why should the petitioner offer to pay what it calls “severance pay” if the private respondents were not, indeed, dismissed, or if the petitioner sincerely believed in the righteousness of its stance?

2. The petitioner further claims that it could not have committed the unfair labor practice charge for dismissing some of its employees due to their alleged union activities because the alleged dismissal took place more than four (4) months before the organizational meeting of the union and more than one (1) year before actual registration of said union with the Labor Organization Division of the Bureau of Labor Relations.

The contention is without merit. Under Article 248(a) of the Labor Code of the Philippines, “to interfere with, restrain, or coerce employees in their exercise of the right to self-organization” is an unfair labor practice on the part of the employer. Paragraph (d) of said Article also considers it an unfair labor practice for an employer “to initiate, dominate, assist or otherwise interfere with the formation or administration of any labor organization, including the giving of financial or other support to it. In this particular case, the private respondents were dismissed, or their services were terminated, because they were soliciting signatures in order to form a union within the plant. In their affidavit, executed on September 19, 1978,^[9] the private respondents stated:

“Na kami ay nagkampanya upang papirmahin namin sa ‘membership form’ ng ULGWP ang nakakarami (majority) sa mga empleyado at nagharap kami ng petisyon sa Ministri ng Paggawa upang masertify ang aming unyon sa Case No. R4-LRD-M-8-403-78;

“Na dahil sa aming pagreklamo sa Pangasiwaan na ibigay sa amin ang mga biyaya sa ilalim ng Kodigo ng Paggawa at dahil sa pagtayo at pagkampaniya namin sa mga empleyado na sumapi sa unyon ay kami ay pinag-initan at tinanggal sa trabaho ng Pangasiwaan.”

For sure, the petitioner corporation is guilty of unfair labor practice in interfering with the formation of a labor union and retaliating against the employees' exercise of their right to self-organization.

3. Finally, the petitioner claims that the “respondent Regional Director’s finding, which was affirmed by respondent Deputy Minister of Labor, that the ‘dismissal’ of respondent union members ‘is conclusively presumed to be without a valid cause’ because petitioner failed to apply for clearance is contrary to the applicable Rules and Regulations Implementing the Labor Code and is at variance with jurisprudence on the matter.”

The petitioner obviously refers to the following portion of the Order of the Regional Director dated November 15, 1978:

“The record shows that complainants Norma Pineda, Vicky Peñalosa, Leonila Morales, Teresita Balmaceda, Adelina Valenzuela and Juanita Reposar were employed by respondent in January, 1978, up to August, 1978. They worked continuously up to the time that their services were terminated by respondent on the ground of abandonment. However, respondent did not apply for clearance with this Office to terminate the services of complainants. Hence, their dismissal is conclusively presumed to be without a valid cause.”

Indeed, prior clearance with the Ministry of Labor for the termination of the private respondents is not necessary in this case since the private respondents have been employed with the petitioner corporation for less than one (1) year. Section 1, Rule XIV, Book V of the Implementing Rules and Regulations provides as follows:

“Section. 1. Requirement for shutdown or dismissal. — No employer may shut down his establishment or dismiss any of his employees with at least one year during the last two years, whether the service is broken or continuous, without prior clearance issued therefor in accordance with this Rule. Any provision in a collective agreement dispensing with the clearance requirement shall be null and void.”

However, the questioned order finding the dismissal of the private respondents to be without just cause is not based upon such absence of prior clearance alone. The respondent Regional Director also found that the private respondents were dismissed because of their union activities and for the failure of the petitioners to file a report in lieu of prior clearance, as provided for in Section 11, Rule XIV, Book V of the Implementing Rules and Regulations. The questioned order further reads, as follows:

“Moreover, we find that complainants did not abandon their job. They were terminated due to the fact that they actively campaigned and assisted in the organization of their union.

“Therefore, the dismissal of complainants is without valid cause, considering that respondent failed to justify their action and also have not filed the necessary report as required under the Labor Code.”

The error of the Regional Director in stating that the dismissal of the private respondents was without just cause in view of the absence of prior clearance from the Ministry of Labor is, thus, not sufficient to warrant a reversal of the questioned order.

WHEREFORE, the petition should be, as it is hereby, **DISMISSED**. The temporary restraining order heretofore issued is hereby **LIFTED** and set **ASIDE**. With costs against the petitioner.

SO ORDERED.

**Barredo, J., (Chairman), Aquino, Guerrero, Abad Santos,
De Castro and Escolin, JJ., concur.**

- [1] Rollo, pp. 39, 41, 43.
[2] Id., p. 50.
[3] Id., p. 57.
[4] Id., p. 59.
[5] Id., p. 80.
[6] Id., p. 81.
[7] Id., p. 107.
[8] Id., p. 29; par. 10(f) of Petition.
[9] Id., p. 48.