SUPREME COURT
FIRST DIVISION

LIRAG TEXTILE MILLS, INC.,
***Petitioner*,**

-versus-

G.R. No. L-27029
November 12, 1981

EPIFANIO D. BLANCO and COURT OF INDUSTRIAL RELATIONS,
***Respondents*.**
x----------x

D E C I S I O N

MELENCIO-HERRERA, *J.*:

Submitted for Review is the Resolution of the Court of Industrial Relations en banc affirming the Decision in Case No. 4219-ULP finding petitioner Lirag Textile Mills, Inc. (LITEX, for brevity) to have committed an unfair labor practice act in dismissing its employee, respondent Epifanio D. Blanco, for union activities and ordering his reinstatement with back wages.

The records disclose that since 1957 there had existed in LITEX a union known as Litex Employees Association (LEA, for short). Private respondent Epifanio D. Blanco, who was employed by LITEX on April 3, 1959, joined that union a few months thereafter.

On January 2, 1960, LEA entered into its first collective bargaining agreement with LITEX for a period of two (2) years, which was subsequently renewed for three (3) years, or up to March 31, 1965. The agreement contained a closed-shop provision as follows:

> "Section 1. Union Security. — The COMPANY recognizes the UNION AS THE SOLE and exclusive collective bargaining representative of all its employees and/or members.
>
> "Section 2. Union Shop. — It is mutually agreed between the COMPANY and the UNION that newly-hired employees on probationary basis in accordance with Section 2, Article III of this AGREEMENT, are required as a condition or prerequisite of continued employment on a regular basis to join and be member of the UNION in good standing. It is a continuing condition of employment with the COMPANY that employees coming under this AGREEMENT should be and must remain as good standing members of the UNION. The UNION therefore, may from time to time recommend to the COMPANY, the separation from the service of any of its members for reasons that he or she is no longer a member of the UNION in good standing. Accordingly, those losing their membership in the UNION could not be retained in the employ of the COMPANY."

The constitution and by-laws of the union also provided, inter alia:

> "Sec. 5, Art. III — Expulsion: — By a majority vote of the Board of Officers, including the President's, any member of the union may be expelled therefrom for any of the following grounds:
>
> 1. Being affiliated with other labor unions.
>
> 2. Refusal to obey constitution and by-laws and the duly enacted rules and regulations of the union.
>
> 3. Acts prejudicial to the interest of the union and/or its members.

x x x[1]

Sometime in January, 1964, BLANCO and several employees organized the Confederation of Industrial and Allied Labor Organization (CIALO). On April 1, 1964, CIALO filed a petition for certification election at LITEX before the Court of Industrial Relations (Case No. 1332-MC). The petition was dismissed, however, and said Court certified LEA as the sole bargaining representative of the rank and file employees of LITEX.[2]

In the same month of April, 1964, LEA's grievance committee conducted an investigation of its members suspected of having joined CIALO.

On April 24, 1964, BLANCO was dismissed by LITEX for violation of company rules and regulations in a letter reading as follows:

> "Dear Mr. Blanco:
>
> This is to inform you that as per report of the Security Guards dated April 10, 1964, you were a) found distributing leaflets and reading materials inside the Service Bus, b) subsequently apprehended at the gate with several other leaflets and an envelope with leaflets for distribution to company employees and c) refused to be searched upon entrance at the gate, in violation of existing company rules and regulations.
>
> Inasmuch as you were previously warned for misconduct and inefficiency on September 27, 1961 and June 1, 1963, respectively, and suspended twice on June 29, 1961 for act of mischief resulting in injury to a co-employee and on July 29, 1963 for refusal to be searched and utterance of bad words against the guards and other offenses contained in our letter of July 10, 1963, we have decided after giving you a definite last warning on July 11, 1963, to terminate your services effective on Friday, April 24, 1964.
>
> Very truly yours,
>
> KHRISNAMURTI A. AFRICANO
> *Personnel Officer*"[3]

On April 27, 1964, LEA addressed a letter to LITEX recommending the immediate dismissal of 18 members named therein, who had been found to have violated the Union's Constitution and by-laws and the Revised Collective Bargaining Agreement by joining CIALO,[4] attaching thereto the minutes of a meeting held by the Board of Officers of LEA on April 24, 1964 adopting a resolution of expulsion.[5] BLANCO's name was not included in the list presumably because he had been dismissed by the company on April 24, 1964, or three days before.

On April 27, 1964, LITEX advised LEA of its reluctance to effect the termination from the service of the 18 employees, and asked for reconsideration.[6] LEA insisted on the dismissal of the 18 employees threatening to go to Court should LITEX refuse to honor its commitment under their collective bargaining agreement.[7]

The 18 employees were dismissed on different dates. They filed separate complaints against LITEX. After investigation, Case No. 4219-ULP for Unfair Labor Practice against LITEX was filed before the CIR on behalf of BLANCO and six others upon the following allegations:

> "4. That the respondent company thru Khrisnamurti Africano, discriminated against the complainants with regards to their tenure of employment by dismissing them on the dates appearing opposite their names listed hereunder for no other reason than their willingness to join the complainant union and/or affiliation therein and union activities so as to discourage membership thereto, as follows:
>
> 1) Francisco Pineda — April 24, 1964
>
> 2) Antonio S. Lalucis — April 29, 1964
>
> 3) Eduardo Canlas — April 28, 1964
>
> 4) Leovigildo Roldan — April 28, 1964
>
> 5) Romeo Florentino — April 28, 1964

6) Daniel Fontaina — April 28, 1964

7) Epifanio Blanco — April 24, 1964"[8]

In its Answer, LITEX denied the charge and raised defenses. The case was subsequently heard on the merits.

LEA endeavored to intervene but its Motion was denied by respondent Court for lack of legal basis.

On October 17, 1966, the Court of Industrial Relations rendered judgment, the dispositive portion of which reads:

> "WHEREFORE, in the case of complainant Epifanio Blanco, the court finds respondents to have violated the Industrial Peace Act and hereby orders them to cease and desist from committing the censurable acts herein found, to reinstate him to his former or equivalent position without loss of seniority and other privileges, and to pay him backwages at the rate of fifty (50) per cent from the time of his dismissal up to his reinstatement.
>
> With respect to all the other complainants, for lack of merit and insufficiency of evidence, the complaint is hereby DISMISSED."

Respondent Court rationalized its holding in respect of BLANCO, thus:

> "Exhibit 'A-Blanco', an unobjected piece of material evidence, shows beyond doubt that the consequent act of respondent company interfered with the exercise of the employee's right to self-organization. Blanco was not even investigated by the company to find out whether or not he did refuse to be searched, as this is the only regulation alleged to have been violated (Exhibit 'A-Blanco'). Under the circumstances, the concurrence of other grounds, stale as they were, reeks with pretext and cannot justify the dismissal. It is explicitly clear that the prevailing reason for his separation from the service was his union activities.[9]

LITEX moved for reconsideration, but this was denied by respondent Court en banc on November 16, 1966. LITEX appealed to this instance assigning the following errors to respondent CIR:

I

> "The Respondent Court erred in holding that the Litex Employees Association (LEA) did not demand the dismissal of the respondent Epifanio Blanco pursuant to the Union Shop provision of the Collective Bargaining Contract (Exhibit 2) just because his name did not appear in the letter (Exhibit 4) in spite of sufficient testimonial and documentary evidence to the contrary.

II

> The Respondent Court erred in holding that the dismissal of respondent Epifanio Blanco for violation of company rules was an unfair labor practice just because the violation was at the same time a union activity, and in justifying this holding to consider a just warning for inefficiency and post violations for misconduct for which he was warned the first time, and for subsequent misconducts for which he was twice suspended, as a result of which he was given a definite last warning, as 'stale' grounds although the last violation for which he was dismissed occurred within nine (9) months from the time the definite last warning was issued to him."

The petition is meritorious.

Respondent Court ruled that the five other complainants (Lalucis, Canlas, Roldan, Florentino and Fontaina) were legally separated from the service pursuant to the closed-shop agreement and the constitution and by-laws of LEA, which have binding effect on the parties, but ruled as unfair labor practice the dismissal of BLANCO, his name not having been included in the list of member-employees who were expelled from the union and recommended to the company for dismissal from the service.

There is no justifiable reason to single out BLANCO. He was in an identical position as the five other complainants. If his name was not included in the list of 18 employees recommended for dismissal, it was because he had been dismissed three days before by the company. And if he had not been dismissed by the company, his dismissal would have been demanded by LEA considering that he was one of those investigated by LEA's grievance committee which had approved the recommendation to dismiss them on the charge of being members of another union. In fact, in paragraph 4 of the Complaint (supra) BLANCO made common cause with the other complainants for having been dismissed "for no other reason than their willingness to join the (CIALO) union and/or affiliation therein and union activities so as to discourage membership thereto." BLANCO admitted his affiliation with CIALO. There is evidence, too, that he, together with his co-employees organized a rival union, CIALO, in contravention of the collective bargaining agreement and the constitution and by-laws of LEA, of which they were then members. These acts of BLANCO and his co-workers of organizing a rival union and distributing leaflets and propaganda papers, clearly constituted a ground for expulsion under Section 5 of LEA's constitution and by-laws, quoted hereinabove.

This Court has held that closed-shop is a valid form of union security, and such provision in a collective bargaining agreement is not a restriction of the right of freedom of association guaranteed by the Constitution.[10] Respondent Court upheld the validity of the closed-shop agreement of LEA and LITEX, when it ruled as legal the dismissal of complainants except respondent, pursuant thereto. Respondent Court should have also upheld as legal the separation from the service of BLANCO on the same ground in the face of evidence that he committed the same violation.

The case of Manalang vs. Artex Development Company, Inc., supra, is authority for the view that:

> "Even if we assume, in gratia argumentis, that the petitioners were unaware of the stipulations set forth in the collective bargaining agreement, since their membership in the BBLU prior to their expulsion therefrom is undenied, there can be no question that as long as the agreement with closed-shop

> provision was in force, they are bound by it. Neither their ignorance of, nor their dissatisfaction with, its terms and conditions would justify breach thereof or the formation by them of a union of their own."

In his Answer to the present Petition, BLANCO claimed that the closed-shop provision applies only to newly hired employees and not to old employees like himself. He abandoned this argument in his Brief, however. Suffice it to say that he was already a member of LEA when the collective bargaining agreement containing the closed-shop provision was executed, and therefore, he was bound by the same.

As a general rule, the findings of facts of the Industrial Court are final and conclusive when supported by substantial evidence.[11] However, where, as in this case, respondent Court ignored the evidence adduced by the parties, it is guilty of grave abuse of discretion as to warrant a review by this Court of its findings of fact.[12]

We come now to the second assigned error. Respondent Court ruled that the prevailing reason for BLANCO's separation from the service was his union activities, and it considered as "stale" the other ground for which he was dismissed, namely, previous misconduct and violations of company rules and regulations. Again, this is reversible error.

BLANCO himself admitted that he was suspended for mischief on June 21, 1961; warned for misconduct and inefficiency on September 27, 1961 and June 1, 1963; suspended on June 25, 1963;[13] nearly dismissed on July 13, 1963 pursuant to a letter of dismissal, dated July 10, 1963, but through LEA's intercession was given a last warning instead on July 11, 1963, as follows:

> "We are giving a reconsideration to the case of Mr. Epifanio Blanco, on the representation of the Litex Employees Association although the facts of the case warrant immediate termination.
>
> Mr. Blanco, is however, to be given a maximum suspension of six (6) working days with a last warning that any other offense will be subject to outright dismissal for cause.

KHRISNAMURTI A. AFRICANO
Personnel Officer

ACCEPTED:

EPIFANIO D. BLANCO"[14]

Accordingly, a suspension order for six days, from July 29 to August 3, 1963, was duly approved by LITEX.[15]

It is noteworthy that one of the grounds of dismissal cited by LITEX in its letter of April 23, 1964 was BLANCO's refusal to be searched upon entrance at the company gate in violation of company rules and regulations. This was the same offense for which he was almost dismissed on July 13, 1963.

Prior violations, misconduct or misdemeanors form part of an employee's record. BLANCO's present infraction coupled with his blemished employment record, with a last warning given some nine months before, inevitably led to his dismissal on April 24, 1964.

An employee may be dismissed on the ground of willful disobedience to rules, orders and instructions of the employer, which must be reasonable and lawful, known to the employee and pertain to duties which the employee discharges.[16]

It is true that BLANCO denied that he refused to be searched.[17] Even granting, however, that he could not be dismissed on the ground of refusal to be searched for lack of sufficient proof, he can still be legally dismissed for his affiliation with CIALO, which is specifically prohibited by the CBA and the Constitution and by-laws of LEA, in respect of which, evidence had been satisfactorily adduced.

WHEREFORE, the appealed Decision in so far as it held that petitioner violated the Industrial Peace Act in dismissing respondent Epifanio D. Blanco and ordering his reinstatement by petitioner, is hereby set aside.

No costs.

SO ORDERED.

Teehankee, *J.*, *(Chairman)*, Makasiar, Fernandez and Guerrero, *JJ.*, concur.

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[1] Exhibit "19", pp. 5-6, Petitioner's Brief.
[2] pp. 187 & 191, Court of Industrial Record.
[3] p. 32, Ibid.
[4] Exhibit "4", p. 96, Ibid.
[5] Exhibit "5", p. 97, Ibid.
[6] p. 98, Ibid.
[7] p. 99, Ibid.
[8] p. 3, Ibid.
[9] Decision, p. 6, Court of Industrial Relations Record, p. 191.
[10] Manalang vs. Artex Dev. Co., Inc., 21 SCRA 562 (1967).
[11] Section 6, Rep. Act 875, as amended.
[12] Mercury Drug Co., Inc. vs. CIR, 56 SCRA 694 (1974).
[13] p. 2, Answer to the Petition, p. 50, Rollo.
[14] p. 116, Court of Industrial Relations Record.
[15] p. 115, Ibid.
[16] Batangas-Laguna Tayabas Bus Co. vs. Court of Appeals, 71 SCRA 470 (1976).
[17] p. 8, Brief for respondent Blanco.
