SUPREME COURT
FIRST DIVISION

LITEX EMPLOYEES ASSOCIATION and DOMINGO RANCES,
***Petitioners*,**

-versus-

G.R. No. L-39154
September 9, 1982

THE COURT OF INDUSTRIAL RELATIONS, LIRAG TEXTILE MILLS, RAFAEL GALLEMA, ANTONIO LORZANO, ET AL.,
***Respondents*.**
x----------x

D E C I S I O N

GUTIERREZ, JR., *J.*:

This is a Petition for Review of a Resolution of the Court of Industrial Relations en banc, dated July 29, 1974 affirming an order of the Hon. Alberto S. Veloso, dated March 2, 1973 dismissing an unfair labor practice charge filed by Litex Employees Association and Domingo Rances against Lirag Textile Mills and the former officers of the complainant union.

On February 10, 1972, petitioner Domingo Rances, a chemical mixer of Lirag Textile Mills, in his capacity as board member of the union

(Lirag Employees Association — PTGWO), wrote a letter to the respondent Antonio G. Lorzano, then president of the union, requesting the latter and the other members of the board to consider the amendment to the union's constitution and by-laws as having been ratified and to implement the same. He further suggested that the matter be submitted to the union's constitutional convention for final decision.

For having written the said letter, Rances was informed by respondent Lorzano that he had no legal personality to write such letter and that such act was in violation of the union's constitution and by-laws.

In a letter dated February 22, 1972, respondent Lorzano informed Rances of a resolution of the union's Board of Directors' to charge him for violation of paragraphs (b) and (c), Section 5 of the Amended Constitution and By-Laws of the Litex Employees Association, to wit:

> "(b) Refusal to obey the provision of the Constitution and By-Laws and the duly enacted rules and regulations of the Union.
>
> "(c) Acts prejudicial to the interest of the Union and/or its members."

for signing the mimeographed letter dated February 10, 1972 addressed to Mr. Antonio G. Lorzano and distributing the same to the members of the union. He was informed that after proper hearing, if found guilty, he would be expelled as a member of the union and be dismissed from his employment at the Lirag Textile Mills.

The letter of the union president required him to answer in writing within 72 hours and to show cause why he should not be expelled from the union and be dismissed from his employment.

Rances failed to answer within the required period and the union's Board of Directors resolved on March 1, 1972 to expel him from the union and to recommend his dismissal from his employment.

On March 2, 1972, respondent Antonio Lorzano sent the Notice of Expulsion from LEA-PTGWO and the Recommendation for Dismissal from Lirag Textile Mills, Inc., to petitioner Rances, a copy of which was furnished the management.

On March 20, 1972, respondent Antonio Manabat of the Lirag Textile Mills, Inc. sent a letter to petitioner-Rances asking him to comment on the notice of expulsion from the union and the recommendation for dismissal from the company which they received from respondent Antonio Lorzano.

Petitioner Rances failed to make any comment. On March 29, 1972, respondent Rafael J. Gallema, Vice-President for Industrial Relations of the Lirag Textile Mills, Inc., sent a letter to petitioner Rances informing him that due to his failure to submit his comment inspite of his promise to do so on March 28, 1972, he was deemed to have no interest in the matter and was considered dismissed from the company effective at the close of office hours on April 4, 1972.

An election of the officers of the union was held on March 30, 1972 and a new set of officers was elected.

On April 1, 1972, petitioner Rances wrote a letter to the new president of the union, Johnny de Leon, requesting a reinvestigation of his expulsion. Mr. de Leon and the new Board of Directors passed Resolution No. 6, Series of 1972, dated April 9, 1972 entitled Resolution Rescinding and Revoking the Resolution of the Board of Directors, dated March 2, 1972 Expelling Domingo Rances from the Litex Employees Association-PTGWO and pursuant to the CBA Union Security Clause recommended the immediate reinstatement of petitioner Rances to his former employment at the Lirag Textile Mills.

On April 11, 1972, Johnny de Leon wrote a letter to the management through respondent Major Rafael Gallema recommending the immediate reinstatement of petitioner Rances under the same terms and conditions of employment before his dismissal. This was answered by Major Gallema, on April 14, 1972, rejecting the recommendation on the ground that the action of the company was already final.

On April 26, 1972, at a union-management grievance meeting, the union represented by its officers and the representative of the labor federation PTGWO, reiterated the reinstatement of petitioner Rances with full backwages under the same terms and conditions of employment but the management, represented by respondent Rafael Gallema, refused the petitioner union's recommendation and stated that petitioner Rances may be accepted only as a casual employee.

In the second union-management grievance meeting held on May 26, 1972, the management represented by no less than Mr. Basilio Lirag, President of the respondent company, and Major Rafael J. Gallema, agreed to accept petitioner Rances as a regular employee effective immediately provided he will accept his guilt (as charged by the management) and for this reason he would not be paid for his two months leave. Petitioner Rances did not accept the proposal.

On May 29, 1972, the petitioners Litex Employees Association and Domingo Rances, as complainants, filed a charge for unfair labor practice against the Lirag Textile Mills, Inc., Rafael J. Gallema, Antonio Manabat, Antonio Lorzano, et al., with the Prosecution Division of the Court of Industrial Relations. Docketed as Charge No. 5098 the complaint was for causing the dismissal of petitioner Rances because of union activities.

In the preliminary investigation conducted by Acting Chief Prosecutor Bienvenido Millares of the CIR Prosecution Division, petitioners, as complainants, submitted the affidavit of Domingo Rances with supporting documents.

On November 3, 1972, the Acting Chief Prosecutor filed a Motion to Dismiss Charge No. 5098 before the Court of Industrial Relations for failure of complainants (herein petitioners) to establish a prima facie case to warrant the filing of a formal complaint in the charge which motion was granted by the Honorable Associate Judge Alberto S. Veloso of the Court of Industrial Relations on March 2, 1972.

Their motion for reconsideration having been denied by the Court of Industrial Relations en banc on July 29, 1974, petitioners filed the present petition contending —

> "That the Chief Prosecutor of the Court of Industrial Relations, who conducted the preliminary investigation of Charge No. 5098, erred in his finding that the 'complainants failed to establish a prima facie case to warrant the filing of a formal complaint' based on his erroneous conclusion that petitioner Rances failed to exhaust the internal union procedures in accordance with the second requirement of Section 17 of Republic Act 875."

The main ground of the Acting Chief Prosecutor in his motion to dismiss is that petitioner Rances failed to comply with the requirement of Section 17 of Republic Act No. 875, as amended, which is the exhaustion of internal procedures as provided by the union's constitution and by-laws to correct the alleged violation, when he refused to submit for investigation to the respondent officers of the union and to comment on the union's recommendation of dismissal as required by the respondent company.

Petitioner Rances maintains that his submitting to the investigation called by the respondent union officers would have resulted in farcical proceedings as the private respondents would have acted as prosecutor, investigator, and judge at the same time. We find this claim of petitioner Rances meritorious. In Kapisanan Ng Mga Manggagawa sa MRR vs. Rafael Hernandez, et al. (20 SCRA 109) this Court held:

> "It is true that under the statute redress must fist be sought within the organization itself in accordance with its constitution and by-laws. However, it has been held that this requirement is not absolute, but yields exception under varying circumstances. In the case at bar, noteworthy is the fact that the complaint was filed against the union and its incumbent officers, some of whom were members of the board of directors. The constitution and by-laws of the union provide that charges for any violation thereof shall be filed before the said board. But as explained by the lower court, if the complainants had done so, the board of directors would in effect be acting as respondent, investigator and judge at the same time. To follow the procedure indicated would be a farce under the circumstances. Where exhaustion of remedies within the union itself would practically amount to a

> denial of justice, or would be illusory or vain, it will not be insisted upon, particularly where property rights of the members are involved, as a condition to the right to invoke the aid of a court."

It is also argued by petitioner Rances that he should not be held liable under the provisions of Section 5, "b" and "c", of the constitution and by-laws of the union for writing the February 10, 1972 questioned letter because as a member and an officer of the union he had a right under Republic Act No. 875 to call the attention of the members to the refusal of the Board of Directors to obey the mandate of the general membership.

We have examined the controversial letter and We cannot sustain the contention that petitioner Rances committed acts prejudicial to the interest of the union and/or its members in writing it.

The letter dated February 10, 1972 addressed to the union president was a comment on the latter's written observation that a proposed amendment of their constitution did not get the required two thirds vote of their general membership.

Rances wrote that, in the first place, the January 18, 1972 plebiscite was unnecessary because the submitted proposal had already been approved in an earlier plebiscite by the required 2/3 majority. And assuming the need for the plebiscite, Rances wrote that the 938 votes in favor of the amendment was more than 2/3 of the 1,320 bona fide paying members of their union. Rances informed Lorzano of serious voting irregularities and described them. He also asked the union president to inform the members that Article X of their constitution on limiting and excluding aspirants for union offices was contrary to the provisions and spirit of Republic Act 875.

Undoubtedly, the real cause of the expulsion of Rances from the union and his consequent dismissal from employment was due to his union activities which displeased the then union president and his group.

For having sent a mimeographed letter to the union president which the union board considered "libelous" and which formed the basis of

the finding of their constitutional convention chairman that the proposed amendment had been ratified. Rances was found guilty of violating their existing constitution — (b) refusal to obey the provision of the constitution and by-laws and the duly enacted rules and regulations of the union, and (c) acts prejudicial to the interest of the union and/or its members — and was expelled from union membership.

The dismissal of Rances from employment was effective April 4, 1972. However, on March 30, 1972 an election of union officers was held. After a new set of union officers took over from the Lorzano group, two union-management grievance meetings were held to discuss the reinstatement of Rances as recommended by the union. In the first meeting, the management manifested its willingness to reinstate Rances on condition that he be accepted only as a casual employee. In the second meeting, the company agreed to accept Rances as a regular employee effective immediately provided he admitted his guilt so that his pay for his two months leave would not be paid.

Under the facts of this case, it cannot be said that the dismissal of petitioner Rances was not an unfair labor practice and, therefore, his reinstatement is warranted.

The company pointed out to the new union president that it merely acted on the union's recommendation pursuant to their collective bargaining agreement when it dismissed Rances and that the stability of company relations with the union would be impaired if the company reconsiders final acts every time the union changes its minds. This argument is, however, belied by the fact that the company did reconsider its "final act" when it offered to reinstate Rances as a casual employee and later to his former position as a regular employee but with an express admission of guilt and non-payment of two months leave. The failure of Rances to submit written explanations to the company representatives is explained by the fact that his dismissal arose from purely union controversies. He was dismissed not because he committed any acts against his employer but because he ceased to be a union member. Obviously, Rances and the new set of union officers were wary of management attitudes towards them *vis-a-vis* the former officers. We also fail to see what kind of admission of guilt the assistant vice-president for industrial

relations of Lirag Textile Mills wanted to elicit from a man who was dismissed from employment for writing a letter on purely union matters to his union president.

Considering the foregoing, the reinstatement of petitioner Rances under the same terms and conditions of his employment is warranted. And following a long line of precedents he should receive three (3) years backwages without deduction or qualification. (Liberty Cotton Mills Workers Union vs. Liberty Cotton Mills, Inc., 90 SCRA 391; Mercury Drug Co., Inc., et al. vs. CIR, et al., 56 SCRA 694; L.R. Aguinaldo, Inc., et al. vs. CIR, et al., 82 SCRA 309; Danao Development Corporation vs. NLRC, et al., 81 SCRA 489; Monteverde, et al. vs. CIR, et al., 79 SCRA 259; Insular Life Insurance Co., Ltd. Employees Association-NATU vs. Insular Life Assurance Co., Ltd., 76 SCRA 50; and People's Bank and Trust Company, et al. vs. People's Bank and Trust Company Employees Union, et al., 69 SCRA 10).

WHEREFORE, the Resolution of the Court of Industrial Relations dated July 29, 1974 and the affirmed order dated March 2, 1973 of Judge Alberto S. Veloso are hereby set aside. The respondent Lirag Textile Mills, Inc. is ordered to reinstate petitioner Domingo Rances under the same terms and conditions of employment and to pay him three (3) years backwages without deduction or qualification. Costs against the private respondents.

SO ORDERED.

Teehankee, *C.J.*, *(Chairman)*, Melencio-Herrera, Plana, Vasquez and Relova, *JJ.*, concur.
Makasiar, *J.*, is on official leave.