SUPREME COURT
SECOND DIVISION

NATIONAL MINES AND ALLIED WORKERS' UNION (NAMAWUMIF), represented by ROY PADILLA as National President,
***Petitioner*,**

-versus-

G.R. No. L-45293
November 25, 1978

HON. FRANCISCO L. ESTRELLA, in his capacity as Acting Director of the Bureau of Labor Relations, HON. ERUDITO LUNA, in his capacity as Mid-Arbiter, Labor Relations Division, Baguio City, BCI EMPLOYEES AND WORKERS' UNION-PAFLU and BENGUET CONSOLIDATED INC.,
***Respondents*.**
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D E C I S I O N

ANTONIO, *J.*:

The issue posed in this Petition for *Certiorari* and mandamus is whether or not public respondents acted arbitrarily in denying the petition for certification election, considering that the said petition

was filed within the period required under Article 257 of the New Labor Code, although the additional proof to support the requisite requirement of 30% of the rank-and-file of their employees was submitted after the lapse of said period. In other words, the question is whether or not proof that the petition is supported by 30% or more of all the rank-and-file employees in the bargaining unit should be submitted also within the period of sixty (60) days prior to the expiration of the life of the Collective Bargaining Agreement. This issue was resolved in the affirmative by the Med-Arbiter, which actuation was affirmed by the Acting Bureau of Labor Relations Director in his questioned Order dated December 9, 1976, when he ruled that the 30% consent requirement must be complied with during the sixty-day period prior to the expiration of the life of the Collective Bargaining Agreement.

It does not appear disputed that for over fifteen (15) years, petitioner Union and respondent Union had been contending for the position of bargaining representative of the rank-and-file employees of the Benguet Consolidated Inc., At least three (3) petitions for certification election filed by petitioner Union were given due course because of a showing to the respective hearings by petitioner Union that not less than 30% of the employees had signed in support of each petition. It is claimed that in each of the certification elections, petitioner Union had never held a rank lower than second in the overall results, indicating continuity of support of a substantial segment of the rank-and-file of the employees of the company.

Forty-five (45) days before the expiration date of the then current Collective Bargaining Agreement between the employees and respondent PAFLU, or on November 19, 1975, petitioner union filed the original petition with the Labor Regional Office No. I, Baguio City (LRD Case No. 301-BD) to determine the exclusive bargaining representative of the rank-and-file employees. It was alleged that there was another union existing within the company, known as the BCI Employees and Workers Union-PAFLU, and that there had been no certification election held within the company for the last twelve (12) months preceding the filing of the petition. At the time of the petition, the Collective Bargaining Agreement between the company and the respondent Union was to expire on January 3, 1976.

Respondent Union moved to dismiss the petition on the ground that the petition was not supported by the written consent of at least 30% of the employees of the unit. Answering the protest, petitioner contended that the 30% requirement is a matter of evidence which may be proven at the proper stage of the proceeding and that an allegation to that effect in the petition constitutes substantial compliance with the statutory requirement.

On December 22, 1975, the Med-Arbiter ruled that the motion to dismiss shall be resolved upon resolution of the petition on the merits. The petition was set for hearing on January 6, 1976 and the respondent company was required to submit its payroll of November 15, 1975. The hearing was reset for January 14, 1976. On January 15, 1976, petitioner filed an amended petition, attaching thereto xerox copies of the alleged signature of 1,457 employees authorizing petitioner to file the petition. It was agreed that the company had 4,715 employees as of November 15, 1975, 30% of which is 1,415.

On January 30, 1976, respondent Union moved for the dismissal of the petition on the ground that out of the names submitted by petitioning Union, four (4) were unsigned, eighty-two (82) were duplications, twelve (12) were triplications, thirty-five (35) were not in the company's list of employees, nine (9) were no longer working, three (3) were security personnel, seventy (70) were forgeries, one hundred nine (109) were obtained through misrepresentation and two (2) were illiterates.

At the hearing of the petition on April 24, 1976, petitioner admitted that the signatures submitted and attached to the amended petition on January 15, 1976 were insufficient and petitioner was, therefore, submitting four hundred thirty-two (432) additional signatures in order to correct the deficiency.

On May 27, 1976, the respondent Med-Arbiter rendered a decision denying the petition for certification election, ruling that petitioner failed to obtain the required written consent of at least 30% of the regular rank-and-file employees in the appropriate bargaining unit. In rejecting the admission of the four hundred thirty-two (432) additional signatures, the Med-Arbiter explained that the same was not filed within the sixty-day period prior to the expiration of the

existing Collective Bargaining Agreement. This was appealed by the petitioner.

On December 9, 1976, respondent Acting Director Francisco L. Estrella affirmed the challenged decision. Contending that the decision of respondent public officials are palpably in conflict with and repugnant to the controlling doctrines laid down by this Court, petitioner filed the present petition.

We find the petition meritorious.

1. The right of employees to self-organization for the purpose of promoting their common welfare by lawful means is a fundamental one. Thus, the Constitution mandates the State to "assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work."[1] But the exercise of this fundamental right to self-organization would be ineffectual if the employees are denied the opportunity to choose their bargaining unit. As explained in FOITAF vs. Noriel:[2] "Their freedom to form organizations would be rendered nugatory if they could not choose their own leaders to speak on their behalf and to bargain for them. It is thus of the very essence of the regime of industrial democracy sought to be attained through the collective bargaining process that there be no obstacle to the freedom identified with the exercise of the right to self-organization. Labor is to be represented by a union that can express its collective will. In the event, and this is usually the case, that there is more than one such group fighting for that privilege, a certification election must be conducted."

   In the Gelmart case,[3] this Court, through Justice Fernando, emphasized the crucial aspect of a certification election. "The institution of collective bargaining is a prime manifestation of industrial democracy at work. The two parties to the relationship, labor and management, make their own rules by coming to terms. That is to govern themselves in matters that really count. As labor, however, is composed of a number of individuals, it is indispensable that they be

represented by a labor organization of their choice." To give substance to the principle of majority rule in a democratic polity, this Court, in the LVN case,[4] stressed that it is essential that the employees must be accorded an opportunity to freely and intelligently determine which labor organization shall act in their behalf. What is significant "in a petition for certification is that through such device the employees are given the opportunity to make known who shall have the right to represent them. What is equally important is that not only some but all of them shall have the right to do so."[5] Indeed, the essence of all the cases is that a certification election is the fairest and most effective way of determining which labor organization can truly represent the working force.[6]

2. In the factual milieu in which the petition for certification election was filed, it would seem apparent that there is a genuine issue of representation. It will be recalled that during the period of about fifteen (15) years in which the petitioning Union and respondent Union had been contending for the position of bargaining representative for the rank-and-file of the employees, the former had always mustered the support or sympathy of a substantial segment of the employees. This Court, in the Federation of Free Workers case,[7] enunciated the principle that labor unions with substantial interest in certification elections have the right to take part therein, emphasizing that relief in such cases should not be emasculated by a narrow construction of technical rules of procedure but should be based on broad grounds of justice, equity and substantial merits of the case. "The most important criterion, as emphasized by Justice Teehankee in the afore-cited case, "is that the bargaining agent be truly representative of the employees and their genuine choice, and hence all labor a substantial interest at stake in the elections and have timely applied to participate therein before the holding of the elections should be so allowed to intervene and be voted for therein. This is but to help subserve the declared policies of the Industrial Peace Act, to accomplish which the industrial court has been freed from the narrow constraints of the technical rules of

procedure in order to grant relief according to the justice and equity and substantial merits of the case."[8]

We perceive no prejudice to the parties in the event the public respondents consider the four hundred thirty-two (432) additional signatures submitted by petitioning Union in ascertaining whether or not the petition is supported by 30% of the employees concerned. After all, the purpose of the 30% requirement is to show that the petitioning Union represents a group of the employees of the company who have a substantial interest in the elections. It has been said that a certification election is not a litigation in the sense in which this term is commonly understood but a mere investigation of a non-adversary nature. The thrust of a certification election is merely to ascertain, by means of the secret ballot, the real bargaining representative of the employees. And in this proceeding, the Med-Arbiter acts merely as an impartial referee between the labor unions who are contending for the right to represent the employees in an appropriate bargaining unit. To paraphrase FOITAF,[9] the best forum for determining whether or not the petition is supported by a substantial segment of the rank-and-file employees of the company is in the certification election itself wherein the workers can freely express their choice in a secret ballot. If, therefore, the respondent Union herein is confident that it commands the majority of the workers in the Benguet Consolidated Inc., We find no cogent reason why it should oppose the certification election.

It also appears that after the expiration of the existing Collective Bargaining Agreement, or on March 31, 1976, the company and respondent Union executed a new Collective Bargaining Agreement incorporating all the conditions imposed by the decision of the Labor Arbiter of May 12, 1976 in the compulsory arbitration case (No. RB-IV-4138-76) to wit: (1) a wage increase of P1.04 a day per man; and (2) incentive for assay workers in the amount of P21,280.00 a year, and providing that the Collective Bargaining Agreement shall be for a period of three (3) years effective on the date of its execution, but the wage increase should be retroactive to the day immediately following the expiration of the 1972 agreement. It is claimed that this Collective Bargaining Agreement has much more favorable terms than the previous agreement. This agreement should be enforced in the meantime.[10] If a union, other than the one that executed the

agreement, should be certified, then such union shall negotiate with management for a new Collective Bargaining Agreement.

> "We are not unmindful that the supplemental collective bargaining contract entered into in the meanwhile between management and respondent Union contains provisions beneficial to labor. So as not to prejudice the workers involved, it must be made clear that until the conclusion of a new collective bargaining contract entered into by it and whatever labor organization may be chosen after the certification election, the existing collective labor contract as thus supplemented should be left undisturbed. Its terms call for strict compliance. This mode of assuring that the cause of labor suffers no injury from the struggle between contending labor organizations follows the doctrine announced in the recent case of Vassar Industries Employees Union vs. Estrella (L-46562, March 31, 1978). To quote from the opinion: 'In the meanwhile, if as contended by private respondent labor union the interim collective bargaining agreement, which it engineered and entered into on September 26, 1977, has much more favorable terms for the workers of private respondent Vassar Industries, then it should continue in full force and effect until the appropriate bargaining representative is chosen and negotiations for a new collective bargaining agreement thereafter concluded.'"[11]

WHEREFORE, in view hereof, the Decisions of the Med-Arbiter, dated May 27, 1976, and of the Acting Director of Labor Relations, dated December 9, 1976, are hereby set aside and the case remanded to the Bureau of Labor Relations for further proceedings in accordance with the judgment. No pronouncement as to costs.

Fernando, *J.*, *(Chairman)*, Barredo, Aquino, Concepcion Jr., and Santos, *JJ.*, concur.

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[1] Section 9, Article II, Constitution.
[2] L-41937, July 6, 1976, 72 SCRA 24, 30-32.
[3] United Employees Union of Gelmart Industries Philippines, (UEUGIP) vs. Noriel, L-40810, October 3, 1975, 67 SCRA 267.

[4] LVN Pictures, Inc. vs. Philippine Musicians Guild, et al., L-12582 & L-12598, January 29, 1961, 110 Phil. 725.
[5] Federation of the United Workers Organization (F.U.W.O) vs. Court of Industrial Relations, L-37392, December 19, 1973, 54 SCRA 305, 310.
[6] Phil. Association of Free Labor Unions, (PAFLU) vs. Bureau of Labor Relations, et al., L-42115, January 27, 1976, 69 SCRA 132.
[7] Federation of Free Workers vs. Paredes, L-36466, November 26, 1973, 54 SCRA 75.
[8] Ibid., p. 82.
[9] FOITAF vs. Noriel, supra, p. 24.
[10] Vassar Industries Employers Union (VIEU) vs. Estrella, L-46562, March 31, 1978, 82 SCRA 280.
[11] Federation of Free Workers (Bisig ng Manggagawa sa UTEX), vs. Carmelo C. Noriel, etc., et al, G. R. Nos. L-47182-83, promulgated on October 30, 1978.