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SUPREME COURT
EN BANC

NATIONAL LABOR UNION,
***Petitioner*,**

-versus-

G.R. No. L-21260
April 30, 1968

GO SOC & SONS AND SY GUI HUAT, INC. and PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS (PAFLU),
Respondents.
x---x

D E C I S I O N

CASTRO, *J.*:

The principal issue posed in this case involves the essential requirements' of hearing in representation proceedings under section 12(b) of the Industrial Peace Act, which provides as follows:

> "Whenever a question arises concerning the representation of employees, the Court may investigate such controversy and certify to the parties in writing the name of the labor organization that has been designated or selected for the appropriate bargaining unit. In any such investigation, the Court shall provide for a speedy and appropriate hearing upon due notice."

More precisely, the important question presented is whether the posting of a notice of the pendency of a petition for certification, without more, satisfies the requirements of section 12(b). Thus, the point is made by the petitioner National Labor Union (NLU) that copies of the notice not only must be posted but must be served on all interested parties, or they will not be concluded by any order that the Court of Industrial Relations may make. There are other secondary points raised which will be taken up in the course of the discussion.

The facts are not in dispute. In a verified petition[1] filed with the CIR on January 25, 1963, the Philippine Association of Free Labor Unions (PAFLU) claimed that it represented a majority of the employees at Go Soc & Sons and Sy Gui Huat, Inc.; that there had been no certification election in the company during the last 12 months preceding the filing of the petition; that there was another union therein, the United Employees Mutual Aid Association (UNEMA); and that this union had no existing collective bargaining contract with the company. It therefore prayed that a certification election be held to determine the exclusive bargaining representative of all the employees.

Thereupon the CIR issued the following order:

> "It appearing from the petition filed with this Court on January 25, 1963 that Philippine Association of Free Labor Unions (PAFLU) requested for a certification election at the Go Soc & Sui Gud Huat & Sons Inc. with principal office at 834 Rizal Avenue, Manila, the manager or Officer-in-Charge of said company is hereby directed to allow the posting of copies of this Order, for the information of all employees and laborers concerned.
>
> "The Clerk of Court is directed to cause the service of copies of the petition to the Manager of the Go Soc & Sui Gui Huat & Sons Inc. in the above address and to the President of the United Employees Mutual Aid Association-UNEMA, c/o Go Soc & Sui Gui & Sons Inc. 834 Rizal Avenue, Manila, requiring said company and union to file and serve their answers within five (5) days from receipt thereof."

On February 9, 1963, following the filing of the answers of the company and of the UNEMA, the CIR heard the matter and, on February 11, issued an order certifying the PAFLU as the bargaining representative of all employees in the company.

On the same day the petitioner National Labor Union (NLU) filed a motion to intervene and to reopen the case, claiming that "thru excusable oversight due to its strike at the above named Company, this Union had failed to make a timely appearance and this is partly due also to the act of petitioner [the herein respondent PAFLU] in intentionally omitting mention of this intervenor in its petition, although it knows fully well that this intervenor has members in said Company whose strike completely paralyzed operations therein."

Thereafter, upon learning that the PAFLU had been certified, the petitioner asked for a reconsideration on the ground that the order of certification was "against the evidence and contrary to law."

The CIR denied the motion for intervention in its order dated February 19, 1963. The petitioner filed a motion for reconsideration. This too was denied.

Hence this petition for certiorari, which seeks a review of the two orders of the CIR — that of February 11, 1963 certifying the PAFLU as the sole and exclusive collective bargaining representative of all employees at Go Soc & Sons and Sy Gui Huat, Inc., and that of February 19, 1963 denying the petitioner's motion to intervene and to reopen the proceedings in case 1165-MC.

We shall first take up the grounds of objection to the order of February 11, 1963. The petitioner claims that it was deprived of its right to a hearing and consequently of its Constitutional right to due process by its exclusion from the proceedings which culminated in the certification of the PAFLU as the bargaining agent of employees. It contends that it was not notified of the hearing in the CIR despite the fact that the CIR was informed by the company of the existence of "another labor organization, the National Labor Union, which is believed to have members among the employees of the answering employer." In this connection, the petitioner cites the rule of the CIR

which provides that petitions for certification filed by labor organizations should state "the names and addresses of any other labor organizations which claim to represent employees in the alleged appropriate unit."[2] It likewise invokes the following provisions of the same rules:

> "Notice of Hearing. — Notice of hearing of a petition for certification shall be served upon the employer and the union or unions affected. Said notice shall be posted in at least two of the most conspicuous and prominent places in the employer's establishment, giving the place, date and time of the investigation of hearing."[3]

It is obvious that the requirement that a petition for certification must state the name of any other labor organization claiming to represent employees can apply only if the existence of such union is known. Here the respondent PAFLU precisely denies that it knew of the existence of the petitioner at the time of the filing of the petition for certification. It is for reasons such as this that the CIR requires the posting of the notice of the pendency of certification proceedings so that those who cannot be reached by service of a copy thereof (because they are unknown) might know and intervene if they so desire.

Nor is service of the order required by the rules of the CIR. The petitioner confuses the order issued by the CIR in this case with that referred to by the rules. For what was ordered posted in the company's premises was a summons to answer the petition for certification; it was not a notice of hearing and so could not be expected to set forth the place, date and time of hearing, as the petitioner would want it to. Indeed no hearing could be set by the CIR because answers had yet to be filed by parties it was summoning by publication.

The petitioner complains that it was not notified of the hearing held on February 9, but if it was not so notified it was because it chose not to intervene. After giving notice by publication of the filing of the petition, the CIR had every reason to presume that only those who filed their answers and intervened were interested and only they should thereafter be notified of any hearing that would follow. The

CIR enjoys great latitude in working out the details of notice. In the absence of a clear and patent abuse of discretion, this Court will not interfere with the conduct of certification proceedings.[4]

It is next contended that the order of February 11, 1963 lacks "substantial evidence" to support it. It is asserted that the order rests on the mere statement of the counsel for the PAFLU that exhibits "A" to "A-101" were the applications for membership of 101 out of 150 employees. But a certification proceeding is not a litigation in the sense the term is commonly understood, where conventional rules of evidence (such as those on the proper identification of exhibits) are strictly observed. It is an investigation of a non-adversary, fact-finding character in which the CIR plays the part of a disinterested investigator seeking merely to ascertain the desires of employees as to the matter of their representation.[5] Especially is this so where, as here, the petition for certification and the claim of majority representation are uncontested.[6] As such, formality and rigidity are altogether lacking. The proceeding is not technical nor is the investigation required to take any particular form.[7] The best evidence of majority authorization is of course the testimony of those who have authorized, but other evidence has been held to be satisfactory. Cards, petitions, or statements signed by a majority of the employees authorizing a labor organization to represent them, or union membership cards, membership applications or affidavits of membership signed by the majority of the employees have been considered adequate proof of majority where their authenticity has been established, or where this evidence has been uncontested by the parties to the proceeding.[8] Such is the nature of the evidence of the respondent PAFLU's majority authorization.

And what of the order of February 19, 1963 denying the petitioner's motion to intervene and to reopen the case? The CIR properly denied it because it was filed long after the investigation had been concluded — indeed on the day the order of certification was issued. What is more, no claim was ever made therein that the petitioner counted with the majority of the employees. All there was the alibi for not intervening earlier in the investigation, to support which there was not even attached any affidavit of merit about the supposed "excusable oversight" of the notice posted in the company's premises. What is more, the order of February 19, 1963 is now final because,

while a motion to reconsider was filed, no copy of the supporting memorandum was served on the respondent PAFLU as required by the rules of the CIR. The denial of the motion for reconsideration was therefore proper, and rendered the order sought to be reconsidered final and executory.

ACCORDINGLY, the orders of February 11, 1963 and February 19, 1963 as well as the resolution of March 30, 1963 of the Court of Industrial Relations are affirmed, at petitioner's cost.

Reyes, *(Acting C.J.)*, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Angeles and Fernando, *JJ.*, concur.
Concepcion, *C.J.*, is on leave.

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[1] Case 1165-MC.
[2] Rule I, sec. 1(b) (5).
[3] Id. sec. 2.
[4] LVN Pictures, Inc. vs. Philippine Musicians Guild, L-12582 & L- 12598, Jan. 27, 1961; Benguet Consolidated Inc. vs. Bobok Lumber Jack Ass'n, L-11029 & L-11065, May 23, 1958.
[5] Benguet Consolidated Inc. vs. Bobok Lumber Jack Ass'n, supra, Note 4.
[6] Cf. Free Employees and Workers Ass'n vs. CIR, L-20862, July 30, 1965.
[7] Inland Empire District Council vs. Millis, 325 U.S. 697, 706 (1944).
[8] 2 L. Teller, Labor Dispute and Collective Bargaining, 907-908 (1940).

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