SUPREME COURT
EN BANC

NATIONAL FASTENER CORPORATION OF THE PHILIPPINES,
***Petitioner*,**

-versus-

G.R. No. L-15834
January 20, 1961

COURT OF INDUSTRIAL RELATIONS and NATIONAL FASTENER EMPLOYEES ASSOCIATION (PTUC),
***Respondents*.**
x----------x

D E C I S I O N

REYES, *J.*:

Petition for *Certiorari* to set aside the Resolution En Banc, dated July 17, 1959, of the Court of Industrial Relations, modifying the decision of His Honor, Presiding Judge Jose S. Bautista, by ordering the reinstatement of Celestino Blas, a member of the respondent union, with back wages, and finding the petitioner corporation guilty of unfair labor practice.

In a complaint dated November 29, 1958, herein petitioner National Fastener Corporation of the Philippines was charged before the respondent Court of Industrial Relations with unfair labor practice

under the provisions of Sec. 4(a), (1), (4) and (5) of Republic Act No. 875, allegedly committed as follows:

> "That respondent corporation through its president and general manager, Hans. M. Menzi, dismissed Celestino Blas, an employee at said corporation and Sergeant-at-arms of the complainant union, on July 17, 1958, in order to discourage union membership and also because of his having testified in the Court of Industrial Relations, Case No. 1340-ULP, entitled 'National Fastener Employees Association (PTUC) versus National Fastener Corporation of the Philippines and Santiago Elizaga and Enrique Mesina', on February 10, 1958."

Petitioner denied the charge in its answer of December 5, 1958, by averring that it was constrained to dismiss Celestino Blas for just and valid grounds, particularly in view of the latter's absenteeism from work.

On June 13, 1959, the Hon. Jose S. Bautista, Presiding Judge, after due hearing, rendered decision, declaring therein respondent corporation guilty of unfair labor practice as charged and ordering the reinstatement of Celestino Blas to his work without backpay. Upon motion for reconsideration filed by both parties, the Court en banc promulgated the appealed resolution, sustaining the findings of unfair labor practice, but, this time, ordering Celestino Blas' reinstatement with back wages. Judge Bautista dissented from this modification.

In this petition for *certiorari*, petitioner corporation contends that the respondent Court of Industrial Relations abused its discretion in ordering the reinstatement of Celestino Blas with backpay, in finding petitioner guilty of unfair labor practice, and in not upholding its (petitioner's) stand that Blas' dismissal from the company was justified.

We see no merit in the appeal.

It is true that Celestino Blas committed certain irregularities during his employment, and this fact is not denied by the respondent union. These irregularities, however, were, except for the alleged absences

without leave on May 5 and 6, 1958, committed long before Blas' dismissal, for which he was already reprimanded or otherwise punished by the petitioner. The immediate cause of discharge, it would appear, was the fact that on July 7, 1958 to July 19, 1958, Blas absented himself from work, allegedly without previous authority from the management. This matter was testified to by Santiago Elizaga, the superintendent of the corporation. According to Celestino Blas, however, between 7:00 to 8:00 o'clock on the morning of July 7, 1958, he went to the main office of the company at 183 Soler, Manila, purposely to see its president and general manager, and there he was able to secure said official's permission to go on vacation leave, without pay. The question of whom to believe being a matter largely dependent on the trier's discretion, the findings of the Industrial Court, which had the better opportunity to examine and appraise the factual issues, certainly deserve respect.

Neither is the lower court's finding on the commission of unfair labor practice by the petitioner corporation so lacking in the requisite support as to warrant a reversal thereof (see Sec. 6, Republic Act No. 875).[1] There is testimony to the effect that, on several occasions, Celestino Blas was approached and instructed by Santiago Elizaga not to affiliate with the complainant union; that to further discourage such membership, Blas was promised that should he comply with the request of the management, he would be given a raise in salary; and that when the management came to know of his affiliation with respondent union, and because he testified in another unfair labor practice case (Case No. 1340-ULP) against petitioner corporation and Santiago Elizaga, he was served with a stern warning that any little infraction on his part would mean his outright dismissal from work. Elizaga himself admitted that there were other employees who incurred absences without leave, and yet said erring employees were not discharged by the company. It may not be amiss to state also that Santiago Elizaga's report to the management (Exh. "8"), which immediately preceded, and most likely prompted, Celestino Blas' dismissal, made significant mention of the fact that "Blas is a member of the P.T.U.C., with whom we (petitioner) have a pending case at the C.I.R."

It is contended that if it were true that the company intended to discourage union membership, then it could have done better by

dismissing more active officials of the respondent union than Celestino Blas, who was just its sergeant-at-arms. But that would have made the design too obvious and, no doubt, would have been more risky for the company to do. For the same reason, we cannot readily accept petitioner's proposition that had the corporation really wanted to discriminate against Blas because of his damaging testimony in said ULP Case No. 1340, it would have likewise dismissed the other two employees who, like Blas, testified critically against the company and Elizaga.

In short, as the record stands, we can not say that the decision of the Industrial Court is not sustained by substantial evidence. That there are circumstances militating against its conclusions does not warrant reversing it, since in appeals of this kind, preponderance of evidence is not the issue, but whether that relied upon in the appealed decision is at all credible.

As to the award of backpay, that matter rests within the sound discretion of the Industrial Court (Sec. 5[a], Republic Act No. 875, Velez vs. PAV Watchman's Union and the Court of Industrial Relations, 107 Phil., 689; 58 Off. Gaz., [7] 1309).

WHEREFORE, the Resolution appealed from is affirmed. Costs against petitioner-appellant.

Paras, *C.J.*, Bengzon, Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Gutierrez David, Paredes and Dizon, *JJ.*, concur.

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[1] See also United Lines, et al, vs. Ass. Watchmen & Security Union, et al., G.R. Nos. L-12208-11, May 21, 1958.