SUPREME COURT
SECOND DIVISION

TELEFUNKEN SEMICONDUCTORS EMPLOYEES UNION-FFW and individual union members DANILO G. MADARA and ROMEO L. MANAYAO,
***Petitioners*,**

-versus-

G.R. Nos. 143013-14
December 18, 2000

THE COURT OF APPEALS, HON. BIENVENIDO LAGUESMA, as Secretary of Labor and Employment, and TEMIC TELEFUNKEN MICROELECTRONICS, (PHILS.), INC.,
***Respondents*.**
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D E C I S I O N

DE LEON, JR., *J.*:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court seeking the reversal of the Decision[1] of the Court of Appeals dated December 23, 1999 in CA-G.R. SP Nos. 54227 and 54665 and its Resolution[2] dated April 19, 2000, denying herein petitioners' motion for reconsideration.

The assailed Decision of respondent Court of Appeals granted the petition of private respondent TEMIC TELEFUNKEN MICROELECTRONICS, (Phils.), INC., (Company, for brevity) in CA-G.R. SP No. 54227 reversing and setting aside the Secretary of Labor's: (1) Decision dated May 28, 1999; and (2) Resolution dated July 16, 1999, insofar as the Company was directed to pay backwages and grant financial assistance to the striking workers.

In CA-G.R. SP No. 54665, on the other hand, the petition of TELEFUNKEN SEMICONDUCTORS EMPLOYEES UNION-FFW (Union, for brevity) and individual union members DANILO G. MADARA and ROMEO L. MANAYAO was dismissed on a finding that the Secretary of Labor did not abuse his discretion nor acted in excess of his jurisdiction when he declared illegal the strike staged by the Union, its officers and members on September 14, 1995, and that as a result thereof, those who participated therein have lost their employment status.

The petition is not meritorious, and the same should be as it is hereby dismissed.

The facts as borne by the records are as follows:

The labor dispute started on August 25, 1995 when the Company and the Union reached a deadlock in their negotiations for a new collective bargaining agreement. On August 28, 1995, the Union filed a Notice of Strike with the National Conciliation and Mediation Board (NCMB).

On September 8, 1995,[3] the then Acting Secretary of the Department of Labor and Employment, Jose S. Brillantes, intervened and assumed jurisdiction over the dispute pursuant to Art. 263, par. (g),[4] of the Labor Code, as amended. Thus, the Order[5] of the said Acting Secretary of Labor enjoined any strike or lockout, whether actual or intended, between the parties. His Notice of the Assumption Order[6] was personally served on the representatives of the Company, namely, on Atty. Allan Montaño, counsel of the Union-FFW, on September 9, 1995 at 1:25 p.m. and twice on Ms. Liza Dimaano, Union President, first on September 8, 1995 at 7:15 p.m. and again on

September 11, 1995 at 9:30 a.m. but both union representatives refused to acknowledge receipt thereof.

Despite the assumption Order, the Union struck on September 14, 1995. Two (2) days later, the Acting Secretary of Labor issued an Order[7] directing the striking workers to return to work within twenty-four (24) hours and for the Company to admit them back to work under the terms and conditions prevailing prior to the strike. Notice[8] of the Return-to-Work Order[9] dated September 16, 1995 of the Acting Secretary of Labor was sent to the striking Union members but still some of them refused to heed the order and continued with their picket. The Federation of Free Workers (FFW) received and acknowledged receipt of the said Return to Work Order on September 18, 1995. On September 23, 1995, violence erupted in the picket lines. The service bus ferrying non-striking workers was stoned, causing injuries to its passengers. Thereafter, complaints for threats, defamation, illegal detention and physical injuries were filed against the strikers.

On October 2, 1995, the Company issued letters of termination for cause to the workers who did not report back to work despite the Notice of Assumption and Return-to-Work Orders issued by the Acting Secretary Jose S. Brillantes of the Department of Labor and Employment (DOLE).

On October 27, 1995, the Acting Secretary of Labor issued another Order[10] directing the Company to reinstate all striking workers "except the Union Officers, shop stewards, and those with pending criminal charges." while the resolution of the legality of the strike was pending. This exclusion Order was reaffirmed with some modifications in an Order[11] dated November 24, 1995.

On December 5, 1995, the Union filed with this Court a petition for certiorari, docketed as G.R. No. 122743, questioning the exclusions made in the aforesaid Orders.

On June 27, 1996, while the said petition in G.R. No. 122743 was pending, then Secretary of Labor Leonardo A. Quisumbing[*] issued a Writ of Execution[12] for the physical reinstatement of the remaining

striking workers who were not reinstated as contained in the thirty-two (32) page list[13] attached to the aforesaid writ.

Accordingly, on July 3, 1996, the Company filed a Motion to Quash, Recall or Suspend the Writ of Execution[14] issued by Secretary Quisumbing. This motion was denied[15] by the Department of Labor and Employment (DOLE, for brevity) for lack of merit and, in the same Order, the DOLE directed the issuance of an Alias Writ to enforce the actual and physical reinstatement of the workers, or in case the same was not feasible, to effect payroll reinstatement. On November 21, 1996, the Company's motion for reconsideration was also denied.[16]

On December 9, 1996, the Company filed with this Court a petition for certiorari, docketed as G.R. No. 127215, questioning the denial of its motion for reconsideration and the Alias Writ issued by the DOLE to enforce the actual and physical reinstatement or the payroll reinstatement of the workers (including the Original Writ of Execution of June 27, 1996).

After we consolidated[17] the petitions for certiorari of the Company and the Union in G.R. Nos. 122743 and 127215, respectively, we rendered a Decision therein on December 12, 1997. The Company's petition for certiorari in G.R. No. 127215 was dismissed for lack of merit. In G.R. No. 122743, we granted the Union's petition and ordered the reinstatement of all striking workers without exception. We also directed the Secretary of Labor and Employment to determine with dispatch the legality of the strike as well as the liability of the individual strikers, if any.

After receipt of our said Decision in G.R. Nos. 122743 and 127215, the DOLE issued an Alias Writ of Execution on August 26, 1998. Thereafter, the Company moved to quash the Alias Writ which was, however, denied[18] by the DOLE. The motion for reconsideration filed by the Company was similarly denied.[19] Aggrieved by the preceding rulings of the DOLE, the Company elevated this case to this Court via another petition for certiorari docketed as G.R. No. 135788.

On December 7, 1998, we resolved[20] to dismiss the said petition in G.R. No. 135788 for (a) failing to state the place of service by

registered mail on the adverse party; (b) failing to submit a certification duly executed by the president of the petitioning Company or by its representative which shows its authority to represent and act on behalf of the Company; and (c) for lack of the requisite certificate of non-forum shopping. We denied this petition with finality on our March 15, 1999 Resolution[21] where we held that the Secretary of Labor did not abuse his discretion in denying the Company's motion to quash the execution of our Decision dated December 12, 1997.

In compliance with our order to the Secretary of Labor and Employment "to determine with dispatch the legality of the strike," marathon hearings were conducted[22] at the DOLE Office with Atty. Lita V. Aglibut as hearing officer. On September 22, 1998, both the Union and the Company complied with the order to submit their respective position papers. The Company adduced evidence and submitted its case for decision. The Union did not adduce evidence. Instead, the Union manifested that it would file a motion to dismiss for failure of the Company to prove its case with the request that it be allowed to present evidence should its motion be denied.

During the subsequent hearings[23] conducted by the hearing officer of DOLE, the Union insisted that a ruling should first be made on the Demurrer to Evidence it previously filed notwithstanding repeated reminders by the Hearing Officer that the technical rules of evidence and procedure do not apply to proceedings before DOLE. Thereafter, an exchange of pleadings, reiterating their respective- positions, ensued between the Company and the Union.

On May 19, 1999, the Union filed a motion before the DOLE praying for the issuance of another Alias Writ of Execution in connection with our March 15, 1999 Resolution in G.R. No. 135788. The Union contended that this Resolution has declared the dismissals of the striking workers as illegal and therefore a writ should be issued for the physical reinstatement of the workers with full backwages and other benefits reckoned from June 27, 1996.

On May 28, 1999, the Secretary of Labor and Employment resolved the matter in a Decision.[24] The Secretary of Labor declared therein that in hearings and resolutions of labor disputes, before the DOLE,

his Office is not governed by the strict and technical rules of evidence and procedure observed in the regular courts of law, and that it will resolve the issues based on the pleadings, the documentary evidence and other records of the case. The dispositive portion of the said Decision dated May 28, 1999 reads:

> "WHEREFORE, PRESSED ON THE FOREGOING, this Office hereby:
>
> a. Declares the strike conducted by the Telefunken Semiconductors Employees Union-FFW on 14 September 1995 as illegal for having been waged in open, willful and knowing defiance of the assumption order dated 8 September 1995 and the subsequent return-to-work order dated 16 September 1995 and consequently, the striking workers are declared to have lost their employment status;
>
> b. Directs the payment of backwages and other benefits to the striking workers corresponding to the temporary reinstatement periods (1) from 27 June 1996 to 28 October 1996, (2) from 21 November 1998 up to the date of this Decision;
>
> c. Directs the Telefunken Micro-Electronics (Phils.), Inc. to grant financial assistance equivalent to one (1) month for every year of service to the striking workers conformably with its grant of the same benefit to other strikers as manifested by the Company to the Supreme Court on 20 November 1997.
>
> In this connection, the Bureau of Working Conditions, this Department, is hereby directed to compute the total award herein made and to submit its report of computation to this Office within ten (10) days from receipt of this Decision.
>
> SO ORDERED."[25]

Dissatisfied, both the Company and the Union together with individual union members Nancy Busa and Arnel Badua, filed

motions for reconsideration of the said Decision of the Secretary of Labor. On July 16, 1999,[26] the Secretary of Labor denied the said motions.

The Company and the Union filed their respective petitions for certiorari docketed as CA-G.R. SP Nos. 54227 and 54665 with the Court of Appeals and these were later on consolidated. On December 23, 1999, the Court of Appeals rendered its now assailed Decision, the dispositive portion of which states:

> "WHEREFORE, the COMPANY's Petition in CA-G.R. No. SP 54227 is GRANTED. The Secretary of Labor's Decision dated 28 May 1999 and his Resolution dated 16 July 1999 are REVERSED and SET ASIDE in so far as they direct the company to pay backwages and grant financial assistance to the striking workers. The said Decision and Resolution are AFFIRMED in all other respects. The Union's Petitions in CA-G.R. SP No. 546654 is DISMISSED.
>
> SO ORDERED."

On January 24, 2000, only the Union sought reconsideration[27] of the said Decision of the appellate court. However, it was denied for lack of merit by the Court of Appeals on April 19, 2000 in its Resolution.[28]

In the petition at bench, petitioners Union, Madara and Manayao submits the following assignment of errors, to wit:

> THE HONORABLE COURT OF APPEALS ERRED:
>
> I
>
> IN AFFIRMING THE DECISION OF THE RESPONDENT SECRETARY OF LABOR IN FINDING THE STRIKE STAGE BY THE UNION ILLEGAL WHICH WAS FEEBLY BASED ON THE COMPANY'S POSITION PAPER AND THE MATERIALS AND PICTORIALS ATTACHED THERETO WHICH ARE BEREFT OF PROBATIVE

VALUE BECAUSE THEY ARE PATENTLY INADMISSIBLE AND INCOMPETENT.

II

IN SUSTAINING THE RESPONDENT SECRETARY'S DECISION EFFECTING THE WHOLESALE TERMINATION OF EMPLOYMENT OF THE STRIKING TEMIC WORKERS WITHOUT ANY DETERMINATION OF THEIR INDIVIDUAL LIABILITY, IF ANY, AS ORDERED BY THE HONORABLE SUPREME COURT, IN THE ABSENCE OF ANY ILLEGAL ACTS COMMITTED BY THE STRIKERS ATTENDANT TO THE STRIKE.

III

IN RULING THAT "THE SOLE OFFICE OF THE WRIT OF CERTIORARI IS THE CORRECTION OF ERRORS OF JURISDICTION INCLUDING THE COMMISSION OF ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION," DOES NOT INCLUDE CORRECTION OF HEREIN PUBLIC RESPONDENT SECRETARY OF LABOR'S EVALUATION OF THE EVIDENCE AND FACTUAL FINDINGS THEREON.

IV

IN RULING IN A MANNER ABSOLUTE "THAT TECHNICAL RULES OF EVIDENCE PREVAILING IN THE COURTS OF LAW AND EQUITY HAVE NO ROOM IN ADMINISTRATIVE AND/OR QUASI-JUDICIAL PROCEEDINGS."

V

IN UPHOLDING THE RESPONDENT SECRETARY OF LABOR'S RULING THAT THE NON-APPLICATION OF TECHNICAL RULES OF PROCEDURE IN PROCEEDINGS BEFORE THE OFFICE OF THE

SECRETARY OF LABOR BARS THE PETITIONERS FROM ADDUCING EVIDENCE AFTER THE DENIAL OF THE UNION'S DEMURRER TO EVIDENCE.

VI

IN NEGATING THE PETITIONERS' VESTED RIGHT TO BACKWAGES.

The petition has no merit.

As to the first and second assigned errors, herein petitioners contend that according to the Constitution[29] and jurisprudence,[30] strikes enjoy the presumption of legality and the burden of proving otherwise rests upon the respondent Company; that the case should not have been decided on the basis of the position paper method because in several instances[31] this Court has looked with disfavor on the position paper method in disposing labor cases; that due to the transcendental issues involved, a hearing should have been conducted to avoid the impression of denial of due process considering the dearth of evidence submitted by respondent Company; and that the pieces of evidence submitted by respondent Company are wanting in probative value.

Herein petitioners also argue that for a union officer to lose his employment status it must be proved that he knowingly participated in an illegal strike; and that in the case of an ordinary member, it must not only be demonstrated that he actually participated in the illegal strike but also that he has committed illegal acts during the strike and which respondent Company allegedly failed to prove.

We do not agree. Despite petitioners' vain attempt to structure the case to show, on its surface, a question of law, nevertheless, the case essentially involves a question of fact. The issues raised basically boils down to a determination of whether or not the position paper and the pieces of evidence adduced by the Company before the DOLE are sufficient in probative value to overthrow the constitutional presumption of the legality of the strike. As correctly observed by the Solicitor General in his Comment,[32] "it (the first and second assigned

errors) essentially involve questions of fact." It calls for a "re-evaluation of facts and a re-examination of the evidence."

We take this occasion to emphasize that the office of a petition for review on certiorari under Rule 45 of the Rules of Court requires that it shall raise only questions of law.[33] The factual findings by quasi-judicial agencies, such as the Department of Labor and Employment, when supported by substantial evidence, are entitled to great respect in view of their expertise in their respective fields.[34] Judicial review of labor cases does not go so far as to evaluate the sufficiency of evidence on which the labor official's findings rest.[35] It is not our function to assess and evaluate all over again the evidence, testimonial and documentary, adduced by the parties to an appeal, particularly where the findings of both the trial court (here, the DOLE Secretary) and the appellate court on the matter coincide,[36] as in this case at bar. The Rule limits that function of the Court to the review or revision of errors of law and not to a second analysis of the evidence.[37] Here, petitioners would have us re-calibrate all over again the factual basis and the probative value of the pieces of evidence submitted by the Company to the DOLE, contrary to the provisions of Rule 45. Thus, absent any showing of whimsical or capricious exercise of judgment, and unless lack of any basis for the conclusions made by the appellate court be amply demonstrated, we may not disturb such factual findings.

Although we have ruled against the reliability of position papers in disposing of labor cases, in the cases of Batongbacal vs. Associated Bank[38] and Progress Homes vs. NLRC,[39] this was due to certain patent matters that should have been tried by the administrative agency concerned, such as certain factual circumstances which, however, are unavailing in the case at bar.

In Batongbacal, we withheld judgment on the case due to the absence of a definitive factual determination of the status of petitioner therein as an assistant vice-president of therein respondent Bank. It has not been established by the Labor Arbiter whether the petitioner therein was a managerial or a rank-and-file employee, noting that there are different causes of termination for both the managerial and rank-and-file employees. Thus, the need to remand the case was necessary.

In Progress Homes, on the other hand, we found that despite the absence of any evidence to establish and support therein private respondents' claim that the petitioners therein were their immediate employers, the Labor Arbiter forthwith concluded the illegal dismissal of the private respondents. Also, there was the apparent failure of the Labor Arbiter to justify why the private petitioner therein should be held solidarily liable with Progress Homes. There was a clear absence of evidence to show that petitioner therein had engaged the services of private respondents therein and that petitioner therein had acted maliciously and in bad faith in terminating the services of private respondents.

The herein petitioners dismally failed to show that there really existed certain issues which would necessitate the remand of this case at bar, or that the appellate court misapprehended certain facts when it dismissed their petition for certiorari.

The need to determine the individual liabilities of the striking workers, the union officers and members alike, was correctly dispensed with by the Secretary of Labor after he gave sufficient opportunity to the striking workers to cease and desist from continuing with their picket. Ensconced in the Labor Code of the Philippines, as amended, is the rule that:

> ARTICLE 263. Strikes, picketing and lockouts.
>
> x x x
>
> (g) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption per certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one had already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and re-admit all workers under the same terms and conditions

prevailing before the strike or lockout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure the compliance with this provision as well as with such orders as he may issue to enforce the same. (Emphasis Ours)

x x x

It is clear from the foregoing legal provision that the moment the Secretary of Labor assumes jurisdiction over a labor dispute in an industry indispensable to national interest, such assumption shall have the effect of automatically enjoining the intended or impending strike. It was not even necessary for the Secretary of Labor to issue another order directing them to return to work. The mere issuance of an assumption order by the Secretary of Labor automatically carries with it a return-to-work order, even if the directive to return to work is not expressly stated in the assumption order.[40] However, petitioners refused to acknowledge this directive of the Secretary of Labor on September 8, 1995 thereby necessitating the issuance of another order expressly directing the striking workers to cease and desist from their actual strike, and to immediately return to work but which directive the herein petitioners opted to ignore. In this connection, Article 264(a) of the Labor Code clearly provides that:

> ARTICLE 264. Prohibited Activities.
>
> (a) x x x.
>
> No strike or lock out shall be declared after the assumption of jurisdiction by the President or the Secretary or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.
>
> Any union officer who knowingly participates in illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a

> strike may be declared to have lost his employment status: Provided, that mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment even if a replacement had been hired by the employer during such lawful strike. (Emphasis Ours)
>
> The rationale of this prohibition is that once jurisdiction over the labor dispute has been properly acquired by the competent authority, that jurisdiction should not be interfered with by the application of the coercive processes of a strike.[41] We have held in a number of cases that defiance to the assumption and return-to-work orders of the Secretary of Labor after he has assumed jurisdiction is a valid ground for loss of the employment status of any striking union officer or member.[42]

Furthermore, the claim of petitioners that the assumption and return-to-work Orders issued by the Secretary of Labor were allegedly inadequately served upon them is untenable in the light of what have already been clearly established in this case, to wit:

> The reports of the DOLE process server, shows that the Notice of Order of 8 September 1995 was actually served on the Union President. The latter, however, refused to acknowledge receipt of the same on two separate occasions (on 8 September 1995 at 7:15 p.m. and on 11 September 1995 at 9:30 a.m.). The Union's counsel of record, Atty. Allan Montano, similarly refused to acknowledge receipt of the 8 September 1995 Order on 9 September 1995 at 1:25 p.m.
>
> Records also show that the Order of 16 September 1995 was served at the strike area with copies left with the striking workers, per the process server's return, although a certain Virgie Cardenas also refused to acknowledge receipt. The Federation of Free Workers officially received a copy as acknowledged by a certain Lourdes at 3:40 p.m. of 18 September 1995.

The foregoing clearly negate the Union's contention of inadequate service of the Orders dated 8 and 16 September 1995 of Acting Secretary Brillantes. Furthermore, the DOLE process server's discharge of his function is an official act carrying the presumption of regularity in its performance which the Union has not disproved, much less disputed with clear and convincing evidence.

Likewise, it would be stretching the limits of credibility if We were to believe that the Union was unaware of the said Orders during all the conciliation conferences conducted by the NCMB-DOLE. Specifically, in the conciliation meetings after the issuance of the Order of 8 September 1995 to settle the unresolved CBA issues and after the issuance of the Order of 16 September 1995 to establish the mechanics for a smooth implementation of this Office's return-to-work directive, the Union — with its officers and members in attendance — never questioned the propriety or adequacy by which these Orders were served upon them.

We are not unaware of the difficulty of serving assumption and return-to-work orders on striking unions and their members who invariably view the DOLE's process servers with suspicion and hostility. The refusal to receive such orders and other processes is, as described by the Supreme Court in an analogous case, "an apparent attempt to frustrate the ends of justice." (Navale, et al. vs. Court of Appeals, 253 SCRA 705)

Such being the case, We cannot allow the Union to thwart the efficacy of the assumption and return to work orders, issued in the national interest, through the simple expediency of refusing to acknowledge receipt thereof.

Having thus resolved the threshold issue as hereinabove discussed, it necessarily follows that the strike of the Union cannot be viewed as anything but illegal for having been staged in open and knowing defiance of the assumption and return-to-work orders. The necessary consequence thereof are also detailed by the Supreme Court in its various rulings. In

Marcopper Mining Corp. vs. Brillantes (254 SCRA 595), the High Tribunal stated in no uncertain terms that —

> "by staging a strike after the assumption of jurisdiction or certification for arbitration, workers forfeited their right to; be readmitted to work, having abandoned their employment, and so could be validly replaced."

Again, in Allied Banking Corporation vs. NLRC (258 SCRA 724), the Supreme Court ruled that:

> "However, private respondents failed to take into consideration the cases recently decided by this Court which emphasized on the strict adherence to the rule that defiance of the return-to-work order of the Secretary of Labor would constitute a valid ground for dismissal. The respective liabilities of striking union officers and members who failed to immediately comply with the return-to-work order, are clearly spelled out in Article 264 of the Labor Code which provides that any declaration of a strike or lock out after the Secretary of Labor and Employment has assumed jurisdiction over the labor dispute is considered an illegal act. Therefore, any worker or union officer who knowingly participates in a strike defying a return-to-work order may as a result thereof be considered to have lost his employment status."

Viewed in the light of the foregoing, We have no alternative but to confirm the loss of employment status of all those who participated in the strike in defiance of the assumption order dated 8 September 1995 and did not report back to work as directed in the Order of 16 September 1995.[43]

To cast doubt on the regularity of the aforesaid service of the two Orders issued by the Secretary of Labor, petitioners cite Section 1, Rule IX of the NLRC Manual on Execution of Judgment which provides that:

> SECTION 1. Hours and Days When Writ Shall Be Served. — Writ of Execution shall be served at any day, except

> Saturdays, Sundays and holidays, between the hours of eight in the morning and five in the afternoon.

However, the above-cited rule is not applicable to the case at bar inasmuch as Sections 1[44] and 4,[45] Rule III of the same NLRC Manual provide that such "Execution shall issue only upon a judgment or order that finally disposes of an action or proceeding." The assumption and return-to-work Orders issued by the Secretary of Labor in the case at bar are not the kind of orders contemplated in the immediately cited rule of the NLRC because such Orders of the Secretary of Labor did not yet finally dispose of the labor dispute. As pointed out by the Secretary of Labor in his Decision, petitioners cannot now feign ignorance of his official intervention, to wit:

> The admissibility of the evidence presented by the Company, however, has been questioned. The Union's arguments are less than convincing. The numerous publications of the subject DOLE Orders in various newspapers, tabloids, radio and television cannot be considered hearsay and subject to authentication considering that the subject thereof were the lawful Orders of a competent government authority. In the case of the announcements posted on the Union's bulletin board, pictures of which were presented by the Company in evidence, suffice it for us to state that the bulletin board belonged to the Union. Since the veracity of the contents of the announcements on the bulletin board were never denied by the Union except to claim that these were "self-serving, unverified/unverifiable and thus utterly inadmissible," We cannot but admit the same for the purpose for which it was presented.[46]

As regards the third assigned error, petitioners contend that a resolution of a petition for certiorari under Rule 65 of the Rules of Court should include the correction of the Secretary of Labor's evaluation of the evidence and factual findings thereon pursuant to the doctrine laid down in Meralco vs. The Honorable Secretary of Labor Leonardo A. Quisumbing.[47] That contention is misplaced. In that case, we ruled that:

> "The extent of judicial review over the Secretary of Labor's arbitral award is not limited to a determination of grave abuse

> in the manner of the secretary's exercise of his statutory powers. This Court is entitled to, and must — in the exercise of its judicial power — review the substance of the Secretary's award when grave abuse of discretion is alleged to exist in the award, i.e., in the appreciation of and the conclusions the Secretary drew from the evidence presented."

However, this Court's "review (of) the substance" does not mean a re-calibration of the evidence presented before the DOLE but only a determination of whether the Secretary of Labor's award passed the test of reasonableness when he arrived at his conclusions made thereon. Thus, we declared in Meralco, that:

> "In this case we believe that the more appropriate and available standard and one does not require a constitutional interpretation — is simply the standard of reasonableness. In layman's terms, reasonableness implies the absence of arbitrariness; in legal parlance, this translates into the exercise of proper discretion and to the observance of due process. Thus, the question we have to answer in deciding this case is whether the Secretary's actions have been reasonable in light of the parties positions and the evidence they presented."[48]

Thus, notwithstanding any allegation of grave abuse of discretion, unless it can be amply demonstrated that the Secretary of Labor's arbitral award did not pass the test of reasonableness, his conclusions thereon shall not be disturbed, as in the case at bar.

The main thrust of a petition for certiorari under Rule 65 of the Rules of Court is only the correction of errors of jurisdiction including the commission of grave abuse of discretion amounting to lack or excess of jurisdiction. However, for this Court to properly exercise the power of judicial review over a decision of an administrative agency, such as the DOLE, it must first be shown that the tribunal, board or officer exercising judicial or quasi-judicial functions has indeed acted without or in excess of its or his jurisdiction, and that there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law.[49] In the absence of any showing of lack of jurisdiction or grave abuse tantamount to lack or excess of jurisdiction, judicial review may not be had over an administrative agency's decision. We

have gone over the records of the case at bar and we see no cogent basis to hold that the Secretary of Labor has abused his discretion.

In the fourth and fifth assignment of errors, petitioners would have us believe that the Court of Appeals, in its assailed Decision ruled in a manner absolute that prevailing technical rules of evidence in the courts of law and equity have no room in administrative and/or quasi-judicial proceedings; and that the non-application of technical rules of procedure in proceedings before the Office of the Secretary of Labor should not have barred herein petitioners from adducing evidence after their demurrer to evidence was denied.

We do not agree. That declaration of the Court of Appeals should be taken in the context of the whole paragraph and the law and the jurisprudence cited in the assailed portion of its decision. We do not sanction the piecemeal interpretation of a decision to advance ones case. To get the true intent and meaning of a decision, no specific portion thereof should be isolated and resorted to but the decision must be considered in its entirety.[50] The portion of the Court of Appeals assailed Decision reads, to wit:

> It cannot be gainsaid that technical rules of evidence prevailing in courts of law and equity have no room in administrative and/or quasi-judicial proceedings (Lawin Security Services, Inc. vs. National Labor Relations Commission, 273 SCRA 132; Valderama vs. National Labor Relations Commission, 256 SCRA 466; De Ysasi III vs. National Labor Relations Commission, 231 SCRA 173). In fact, Article 221 of the Labor Code expressly mandates that in proceedings before "the (National Labor Relations) Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling." This provision is also applicable to proceedings before the Office of the Secretary of Labor and Employment which, under the said Code, is empowered to hear and resolve matters arising from the exercise of its plenary power to issue assumption or (sic) jurisdiction and return-to-work orders, all in keeping with the national interest (Article 263(g) and Article 264 of the Labor Code)."[51]

The contention of petitioners that they should have been allowed to present evidence when their demurrer to evidence was denied by the Secretary of Labor, is untenable. The record shows that in the hearing of September 22, 1998 attended by the parties, Atty. Lita V. Aglibut, Hearing Officer, of the public respondent's office, who presided over the hearing directed the parties to submit their respective position papers together with the affidavits and documentary evidence within ten (10) days.[52] While the Company submitted its position paper together with supporting evidence and rested its case for resolution, herein petitioners, however, submitted only its position paper but without attaching thereto any supporting documentary evidence. Petitioners chose to rely on the Rules of Court by filing a demurrer to evidence in the hope of a favorable decision and disregarded our resolution in G.R. No. 127215 ordering the Secretary of Labor to determine with dispatch the legality of the strike. On the other hand, the petitioners argued merely on the presumption that the strike was legal. The fact that the Hearing Officer of DOLE admitted their demurrer to evidence is not a valid excuse for herein petitioners not to comply with her said directive for the petitioners to submit their position paper and to attach thereto affidavits and documentary evidence within ten (10) days. Petitioners' non-compliance with that directive by failing or refusing to attach affidavits and supporting evidence to their position paper should not be ascribed as the fault of the Secretary of Labor when he denied their demurrer to evidence and forthwith rendered decision on the illegality of the strike. Petitioners have only themselves to blame for having defied the order of the said Hearing Officer of DOLE to submit position papers with supporting evidence. A party who has availed of the opportunity to present his position paper cannot claim to have been denied due process.[53] The requirements of due process are satisfied when the parties to a labor case are given the opportunity to submit position papers wherein they are supposed to attach all the documents that would prove their claim in the event it will be decided that no further hearing should be conducted or that hearing was not necessary.[54]

The grant of plenary powers to the Secretary of Labor under Art. 263(g) of the Labor Code, as amended, makes it incumbent for him to bring about soonest, a fair and just solution to the differences between the employer and the employees so that the damage such labor dispute might cause upon the national interest may be

minimized as much as possible, if not totally averted, by avoiding stoppage of work or any lagging of the activities of the industry or the possibility of these contingencies which might cause detriment to such national interest.[55] Accordingly, he may adopt the most reasonable and expeditious way of writing finis to the labor dispute. Otherwise, the result would be absurd and contrary to the grant of plenary powers to him by the Labor Code over a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest.

And finally, with respect to petitioners' claim of backwages, we find that the ratiocination of the appellate court in its assailed Decision is in accord with law and settled jurisprudence, to wit:

> "On the issue of the award of backwages and financial assistance to the striking workers, the well-entrenched doctrine is that it is only when there is a finding of illegal dismissal that backwages are granted (St. Theresa's School of Novaliches Foundation vs. National Labor Relations Commission, 289 SCRA 111; Industrial Timber Corporation-Stanply Operations vs. National Labor Relations Commission, 253 SCRA 623; Jackson Building Condominium Corporation, 246 SCRA 329), and financial assistance or separation pay allowed (Mabeza vs. National Labor Relations Commission, 271 SCRA 670; Capili vs. National Labor Relations Commission, 270 SCRA 688; Aurora Land Projects Corporation vs. National Labor Relations Commission, 266 SCRA 48).

Since, as correctly found by the Secretary of Labor, the strikers were not illegally dismissed, the COMPANY is under no obligation to pay backwages to them. It is simply inconsistent, nay, absurd, to award backwages when there is no finding of illegal dismissal (Filflex Industrial and Manufacturing Corporation, 286 SCRA 245) when the record shows that the striking workers did not comply with lawful orders for them to return to work during said periods of time. In fact, the Secretary of Labor observed that while "it was obligatory on the part of both parties to restore, in the meantime, the status quo obtaining in the workplace", the same "was not possible considering the strikers had defied the return-to-work Order of this Office" (p. 8, Ibid). With such blatant disregard by the strikers of official edicts

ordering their "temporary reinstatement", there is no basis to award them backwages corresponding to said time frames. Otherwise, they will recover something they have not or could not have earned by their willful defiance of the return-to-work order, a patently incongruous and unjust situation (Santos vs. National Labor Relations Commission, 154 SCRA 166).

The same view holds with respect to the award of financial assistance or separation pay. The assumption for granting financial assistance or separation pay, which is, that there is an illegally dismissed employee and that illegally dismissed employee would otherwise have been entitled to reinstatement, is not present in the case at bench. Here, the striking workers have been validly dismissed. "Where the employee's dismissal was for a just case, it would be neither fair nor just to allow the employee to recover something he has not earned or could not have earned. This being so, there can be no award of backwages, for it must be pointed out that while backwages are granted on the basis of equity for earnings which a worker or employee has lost due to his illegal dismissal, where private respondent's dismissal is for just cause, as is (sic) the case herein, there is no factual or legal basis to order the payment of backwages; otherwise, private respondent would be unjustly enriching herself at the expense of petitioners." (Cathedral School of Technology vs. National Labor Relations Commission, 214 SCRA 551). Consequently, granting financial assistance to the strikers is clearly a "specious Inconsistency" supra. We are of course aware that financial assistance may be allowed as a measure of social justice in exceptional circumstances and as an equitable concession. We are likewise mindful that financial assistance is allowed only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character (Zenco Sales, Inc. vs. National Labor Relations Commission, 234 SCRA 689). However, the attendant facts show that such exceptional circumstances do not obtain in the instant cases to warrant the grant of financial assistance to the striking workers. To our mind, the strikers' open and willful defiance of the assumption order dated September 16, 1995 constitute serious misconduct as well as reflective of their moral character, hence, granting financial assistance to them is not and cannot be justified (Philippines Airlines, Inc. vs. National Labor Relations Commission, 282 SCRA 536, citing Philippine Long

Distance Telephone Company vs. National Labor Relations Commission, 164 SCRA 671)."[56]

In fine, there is no reversible error in the assailed Decision and Resolution of the Court of Appeals.

WHEREFORE, the petition is **DISMISSED**. The appealed Decision dated December 23, 1999 and the Resolution dated April 19, 2000 of public respondent Court of Appeals are **AFFIRMED**. No costs.

SO ORDERED.

Bellosillo, Mendoza and Buena, *JJ.*, concur.

Quisumbing, *J.*, took no part, former DOLE Secretary.

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[1] Penned by Justice Bernardo P. Abesamis and concurred in by Justice Delilah Vidallon-Magtolis, Chairman, Special Fifteenth (15th) Division, and Justice Wenceslao I. Agnir, Jr.; Rollo, pp. 170-190.
[2] Rollo, pp. 191-193.
[3] Rollo, pp. 200-201.
[4] ARTICLE 263. Strikes, picketing and lockouts.

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(g) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest; the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption per certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure the compliance with this provision as well as with such orders as he may issue to enforce the same.

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[5] See note 3.
[6] Rollo, p. 199.
[7] Rollo, pp. 203-205.

[8] Rollo, p. 202.
[9] Ibid.
[10] Rollo, pp. 207-227.
[11] Rollo, pp. 229-236.
[*] Now Associate Justice of the Supreme Court.
[12] Rollo, pp. 237-238.
[13] Rollo, pp. 239-270.
[14] Rollo, p. 411.
[15] Order dated October 17, 1996; Rollo, pp. 274-275.
[16] Rollo, pp. 282-287.
[17] Rollo, p. 414.
[18] Order dated September 16, 1998; Rollo, pp. 340-342.
[19] Order dated October 12, 1998; Rollo, pp. 406-407.
[20] Rollo, pp. 532-533.
[21] Rollo, pp. 535-541.
[22] September 10, 15, 22, 1998, and on October 13, 1998.
[23] March 8 and 16, 1999.
[24] Rollo, pp. 550-559.
[25] Ibid., pp. 558-559.
[26] Rollo, pp. 591-593.
[27] Rollo, pp. 594-614.
[28] Rollo, pp. 191-193.
[29] 1987 Constitution, Art. XIII, Sec. 3, par. 2.
[30] Master Iron Labor Union vs. NLRC, 219 SCRA 47, 60 [1993].
[31] Batongbacal vs. Associated Bank, 168 SCRA 600 [1988]; Progress Homes vs. NLRC, 269 SCRA 274 [1997]; and Meralco vs. Quisumbing, 302 SCRA 173 [1999].
[32] Rollo, pp. 631-663, 642.
[33] Section 1, Rule 45 of the Rules of Court.
[34] Labor Congress of the Philippines vs. NLRC, 292 SCRA 469, 476 [1998] citing Association of Marine Officers and Seamen of Reyes and Lim Co. vs. Laguesma, 239 SCRA 412 [1994], Lopez Sugar Corporation vs. Federation of Free Workers, 189 SCRA 179 [1990], Gubac vs. NLRC, 187 SCRA 412 [1990].
[35] Austria vs. NLRC, 310 SCRA 293, 300 [1999] citing Fernandez vs. NLRC, 281 SCRA 423 [1997].
[36] Olan vs. Court of Appeals, 287 SCRA 504, 509 [1998] citing South Sea Surety and Insurance Co. vs. Court of Appeals, 244 SCRA 744 [1995].
[37] Caoili vs. CA, 314 SCRA 345, 353 [1999].
[38] 168 SCRA 600 [1988].
[39] 269 SCRA 274 [1997].
[40] Union of Filipro Employees vs. Nestle Philippines, Inc., 192 SCRA 396, 411 [1990].
[41] Zamboanga Wood Products, Inc. vs. NLRC, 178 SCRA 482, 491 [1989].
[42] Allied Banking Corporation vs. NLRC, 258 SCRA 724 [1996]; Marcopper Mining Corporation vs. Brillantes, 254 SCRA 595 [1996]; St. Scholastica's College vs. Torres, 210 SCRA 565 [1992]; Federation of Free Workers vs. Inciong, 208 SCRA 157 [1992]; Union of Filipro Employees vs. Nestle

Philippines Inc., supra; Asian Transmission Corp. vs. NLRC, 179 SCRA 582 [1989]; and Sarmiento vs. Tuico, 162 SCRA 676 [1988].

[43] Rollo, pp. 555-556.

[44] SECTION 1. Execution Upon Final Judgment or Order. — Execution shall issue only upon a judgment or order that finally disposes of an action or proceeding, except in specific instances where the law provides or execution pending appeal.

[45] SECTION 4. Issuance of a Writ. — Execution shall issue upon an order, resolution or decision that finally disposes of the actions or proceedings.

[46] Rollo, p. 557.

[47] 302 SCRA 173, 217 [1999].

[48] Id., p. 192.

[49] Section 1, Rule 65 of the Rules of Court.

[50] Valderama vs. NLRC, 256 SCRA 466, 472 citing Policarpio vs. P.V.B. and Associated Ins. & Sut Co. Inc., 106 Phil. 125, 131 [1959].

[51] Rollo, pp. 184-185.

[52] TSN, September 22, 1998, pp. 58-59; Rollo, pp. 399-400.

[53] Masagana Concrete Products vs. NLRC, 313 SCRA 576 [1999].

[54] Mark Roche International vs. NLRC, 313 SCRA 356 [1999].

[55] See Manila Cordage Company vs. CIR, 37 SCRA 288, 300 [1971].

[56] CA Decision, pp. 17-20; Rollo, pp. 186-189.