

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**WESTERN AGUSAN WORKERS
UNION-LOCAL 101 OF THE UNITED
LUMBER AND GENERAL WORKERS
OF THE PHILIPPINES (WAWU-
ULGWP LOCAL 101),**

Petitioner,

-versus-

**G.R. No. 75724
May 6, 1991**

**THE HONORABLE CRESENCIANO B.
TRAJANO, IN HIS CAPACITY AS
DIRECTOR OF THE BUREAU OF
LABOR RELATIONS, MINISTRY OF
LABOR AND EMPLOYMENT;
PHILIPPINE TRANSPORT AND
GENERAL WORKERS' ORGANIZATION
(PTGWO), AND WESTERN AGUSAN
WORKERS UNION (WAWU),**

Respondents.

X-----X

DECISION

BIDIN, J.:

This is a Petition for *Certiorari* with Preliminary Injunction Seeking the Annulment of the March 31, 1986 decision of the Director of the Bureau of Labor Relations in BLR Case No. A-10-237-85 affirming the August 9, 1985 order of the Med-Arbiter in ROX MED-ARB Case No. 14-85; and the July 11, 1986 order denying the Motion for Reconsideration.

All the private parties in this case are duly registered labor unions and the bargaining units concerned are the Nasipit Lumber Company (NALCO, for short) and its affiliate, the Philippine Wallboard Corporation (PWC, for short), both hereinafter called NALCO-PWC, which are engaged in wood and lumber industry at Nasipit, Agusan del Norte.

Petitioner, Western Agusan Workers Union (WAWU, for short), is a duly registered labor union since 1948. Sometime in 1960, by affiliation, WAWU became one of the local unions of United Lumber and General Workers of the Philippines (ULGWP, for short), a national union, and to differentiate it from the other local union members of ULGWP, it was called WAWU-ULGWP LOCAL 101.

Private respondent Western Agusan Workers Union (KMU-WAWU) refers to the group of members of WAWU-ULGWP Local 101, who disaffiliated themselves from the mother union ULGWP.

Respondent Philippine Transport and General Workers Organization (respondent PTGWO) is a national labor organization. NALCO has employed in its business a working force of more or less 2,100 workers in the level of rank and file, almost all of whom are members of the Labor Union of the Western Agusan Workers Union (WAWU).

As found by the Director of the Bureau of Labor Relations, the facts of this case are as follows:

“It appears that on May 9, 1985, the Philippine Transport and General Workers’ Organization (PTGWO) instituted a petition for certification election alleging, in substance, that thirty percent (30%) of the rank and file workers of the Nasipit Lumber Company (NALCO) and its sister companies supported its petition; that almost all of the 2,100 workers of the company

belonged to bargaining agent; that the collective bargaining agreement between NALCO and WAWU-ULGWP Local 101 would expire on June 30, 1985; and that there has been no certification election in the company during the twelve (12) months immediately preceding the petition's filing. Attached to the petition were the signatures of some 612 purported employees of the company.

"This was opposed by the compulsory intervenor WAWU-ULGWP Local 101 on the grounds that the petition does not meet the 30% consent requirement as the names and signatures appearing in the list submitted by PTGWO had been secured through fraud and that the purported signatures thereon were mere forgeries.

"On May 26, 1985, the members of the Local KMU-WAWU adopted a resolution to disaffiliate from ULGWP invoking the law on disaffiliation which limits such actions only within the 60-day freedom period. WAWU contended that as an independently registered union, its disaffiliation from ULGWP did not extinguish its judicial personality; that it was the principal party to the CBA while ULGWP was only its agent from which it could disaffiliate at will; that while it was in favor of the certification election, the federation's name should not be attached to its own in the same ballot; that as the principal party to the CBA, it was the bargaining agent entitled to administer and enforce the agreement with the employer; that the issue of disaffiliation was not a prejudicial question to the settlement of representation proceedings; that, in fact, it could be treated in a separate proceeding. Further, WAWU enjoined NALCO from farther deducting union dues in favor of ULGWP.

"On the other hand, ULGWP argued that since it lacks the requisite support from the members of the bargaining unit, the petition should not be granted; that the disaffiliation of WAWU was void as only 429 out of total union membership of 2,149 voted in its favor and since no notice of disaffiliation was given to ULGWP by WAWU as required by the federation's constitution and by-laws; that WAWU had not acquired any legal personality to participate in the representation

proceedings as it had not died its intervention within the freedom period; that while it was true that majority of its officers had disaffiliated, ULGWP had reorganized its local and had a new set of officers elected, that the federation had issued a charter to WAWU-ULGWP Local 101 making it a local organization of the federation; that being the true and real compulsory intervenor, WAWU-ULGWP Local 101 should be placed on the ballot as a choice for the workers in the certification election. Moreover, ULGWP stressed to NALCO that WAWU's disaffiliation was void and, hence, it was still entitled to receive the dues checked-off from the members of the bargaining unit.

“On July 8, 1985, NALCO filed a Motion for Interpleader praying, among others, to be allowed to hold the checked-off dues and/or deposit the same in a special account in view of the conflicting claims of ULGWP and WAWU.” (Rollo, p. 20).

On August 9, 1985, Med-Arbiter Rodolfo S. Milando issued an order granting the certification election sought by PTGWO; declaring the disaffiliation of WAWU from ULGWP meritorious, legal and valid, denying the motion of NALCO-PWC for interpleader to be allowed to hold the checked-off dues and or deposit the same in a special account and designating the unions to participate in the certification election. The dispositive portion reads:

“IN VIEW OF THE FOREGOING, this Office is, as it is hereby, constrained to order that a certification election sought for by PTGWO in the above-mentioned collective bargaining unit be GRANTED; that the disaffiliation of WAWU from ULGWP is meritorious, legal and valid; and, that the motions filed by NALCO-PWC to withhold the check-off of union dues, per capita dues and other assessments and or deposit the same in a special account be DENIED in the light of the decision in Sarangani case, the provision of Article 254 of the Labor Code and the difficulty encountered by this Office in ascertaining the names of WAWU members who expressly disaffiliated from ULGWP since the former failed to submit to this Office said names which are very necessary as far as this particular issue is concerned.

“ACCORDINGLY, the following are to participate in the certification election.

1. Philippine Transport and General Workers’ Organization (PTGWO);
2. Western Agusan Workers’ Union (WAWU);
3. United Lumber and General Workers of the Philippines (ULGWP); and
4. No Union.”

On August 24, 1985, petitioner filed a Memorandum of Appeal but in a decision dated March 31, 1986, herein public respondent Director Cresenciano B. Trajano of the Bureau of Labor Relations affirmed the appealed order as follows:

“WHEREFORE, premises considered, the decision appealed from is affirmed and the appeal is dismissed for lack of merit.”

A Motion for Reconsideration was filed but the same was denied in an order dated July 11, 1986. Hence, the instant petition.

The Second Division of this Court, in a resolution dated September 5, 1986, resolved to require the respondents to comment and to issue a temporary restraining order.

In compliance with the aforesaid resolution, respondent WAWU file its comment on October 9, 1986 wherein it alleged, among others, that the issue in this case has been rendered moot and academic because the certification election sought to be restrained had been conducted in a peaceful, orderly and clean manner on September 6, 1986, participated in by all the contending unions but the canvassing was not finished due to the untimely service of the telegraphic restraining order; that the voting supervised by the Ministry of Labor and Employment personnel had been completed and the canvassing already started when Med-Arbiter Rodolfo S. Milado, without prior order or authority from the respondent Bureau of Labor Relations

which then had not yet been served with the restraining order, unilaterally and illegally suspended the proceedings at about 5:00 o'clock in the afternoon of the election day; that the ballots cast in Precincts I and II had been duly canvassed showing the following trend — PTGWO-4; ULGWP-27; WAWU-617; while the ballots in the remaining Precincts III and IV were sealed and transported to the MOLE office at Cagayan de Oro City. Hence, in order not to frustrate the will of the rank and file workers who voted in the aforesaid certification election, it was prayed that the canvassing of the remaining precincts be immediately ordered by this Court in order to determine once and for all to which contending unions the workers would want to affiliate. It was also pointed out that in the instant case, the petitioner is neither the WAWU nor ULGWP but “WAWU-ULGWP LOCAL 101” which is not a registered union by itself and, therefore, it has no legal capacity to sue.

Respondent PTGWO, on the other hand, filed its comment on October 8, 1986 stating, among others, that the petition is anchored on technicalities rather than on substance and merit; while the Solicitor General filed its comment on November 4, 1986 expressing accord with the view that a certification election should be held at the employer-corporations, but dissenting to the pronouncement that the disaffiliation of WAWU and ULGWP is meritorious, legal and valid.

Still further, on December 18, 1986, respondent WAWU filed a supplemental comment alleging that the other 1,438 WAWU members who were not present during the May 26, 1984 election signed a certification to the effect that they were in favor of the disaffiliation of WAWU from ULGWP; attached as Annex “1 to the supplemental comment; and that after the disaffiliation of WAWU from ULGWP on May 26, 1985, WAWU entered into a new Collective Bargaining Agreement with NALCO on December 4, 1985, effective within a period of three (3) years - from July 1, 1985 to June, 1988, also attached as Annex “2”.

After all the required pleadings were filed, this Court, in a resolution dated February 10, 1988, gave due course to the petition and required the parties to file their respective memoranda. The private parties complied by submitting the required memoranda; while the Solicitor

General, in a Manifestation/Motion, prayed that his comment and rejoinder be considered as his memorandum.

The main issues raised in this petition are: (I) Whether or not a certification election should be held at the employer corporations; (II) Whether or not the disaffiliation vote of 429 WAWU members is sufficient to effect the disaffiliation of WAWU and ULGWP; and (III) Whether or not the employer corporations should hold the check-off and per capita dues and deposit the same in a special account until the controversy is finally resolved.

WAWU-ULGWP-Local 101 contends that the working force at the employer corporations consists of 2,149 rank and file employees, 30% of which would be 644. Hence, the 620 support signatures submitted by PTGWO fell short of the 30% requirement.

Such contention is untenable.

From the comment and supplemental comment of respondent WAWU, it appears evident that the issues in this case have become moot and academic.

But even assuming such is not the case, it has long been settled that the policy of the Labor Code is indisputably partial to the holding of a certification election so as to arrive in a manner definitive and certain concerning the choice of the labor organization to represent the workers in a collective bargaining unit. Conformably to said basic concept, this Court recognized that the Bureau of Labor Relations in the exercise of sound discretion, may order a certification election notwithstanding the failure to meet the 30% requirement (Scout Ramon V. Albano Memorial College vs. Noriel, 85 SCRA 494 [1978]; Vicmico Industrial Workers Asso. vs. Noriel, 131 SCRA 569 [1984]).

As observed by the Solicitor General, serious doubts exist whether WAWU-ULGWP-Local 101 still represents the majority of the rank-and-file employees at the employer corporations. Thus, while WAWU-ULGWP Local 101 maintains that the work force consists of 2,149 rank-and-file employees, yet PTGWO was able to muster 620 support signatures, not to mention that 429 of its members voted to disaffiliate from WAWU-ULGWP Local 101. Consequently, the

sentiments/loyalties of the remaining 1,100 rank-and-file employees is yet to be determined by the best means possible which is through certification election.

Such certification election has in fact taken place as earlier stated on September 6, 1986 showing a definite trend in favor of WAWU although the canvassing was not completed due to the restraining order issued by this Court.

Moreover, the fact that members of the mother organization or unit have disaffiliated is an added reason for certification election. On this issue, this Court had occasion to state that “the best forum for determining whether there were indeed retractions from some of the laborers is the certification election itself wherein the workers can freely exercise their choice in a secret ballot.” (Vicmico Industrial Workers Asso. vs. Noriel, *supra*; National Mines and Allied Workers Union vs. Luna, 83 SCRA 607 [1978]). Once the fact of disaffiliation has been demonstrated beyond doubt, a certification election is the most expeditious way of determining which labor organization is to be the exclusive bargaining representative (Philippine Labor Alliance Council (PLAC) vs. Bureau of Labor Relations, 75 SCRA 162 [1977]).

In the same manner, the authenticity of PTGWO’s support signatures will be finally decided by the results of the certification election. Moreover, it is equally indubitable that the doubt sought to be cast on the authenticity of the signatures appearing in the petition for certification election cannot be a bar to its being granted. Even on the assumption that the evidence is clearly insufficient and the number of signatories is less than 30%, such cannot militate against the holding of certification election (Filipino Metals Corp. vs. Ople, 107 SCRA 211 [1981]).

While the Solicitor General conceded that the disaffiliation move was made within the freedom period authorized by law (P.D. 139, provision No. 6), he expressed doubts as to the sufficiency of the votes of 429 members for purposes of disaffiliation as the exact membership of WAWU has not been established.

However, such doubts are evidently cleared by a later development where 1,439 WAWU members who were not present during the

election certified that they were in favor of disaffiliation of WAWU from ULGWP. Finally, WAWU entered into a new Collective Bargaining Agreement with NALCO on December 4, 1985 effective for three (3) years from July 1, 1985 to June, 1988 which forecloses the other issues including the payment of dues.

WHEREFORE, the instant Petition is Dismissed for having become moot and academic and the assailed decision of the Director of the Bureau of Labor Relations is Affirmed. The temporary restraining order issued by this Court on September 5, 1986 is lifted.

SO ORDERED.

**Fernan, C.J., Gutierrez, Jr., Feliciano and Davide, Jr., JJ.,
concur.**