352 Phil. 773

FIRST DIVISION

[G.R. No. 124950, May 19, 1998]

ASIONICS PHILIPPINES, INC. AND/OR FRANK YIH, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, YOLANDA BOAQUINA, AND JUANA GAYOLA, RESPONDENTS.

R E S O L U T I O N

VITUG, J.:

In this special civil action of *certiorari,* petitioners Asionics Philippines, Inc. ("API"), and its President and majority stockholder, Frank Yih, seek to annul and set aside the decision,[1] dated 19 May 1996, of the National Labor Relations Commission ("NLRC") which has ordered, inter alia, that they grant separation pay, computed at one-half (1/2) month per year of service, to private respondents Yolanda Boaquina and Juana Gayola. Concomitantly being contested is the subsequent 16th April 1996 resolution[2] of the NLRC denying petitioners' motion for reconsideration.

.API is a domestic corporation engaged in the business of assembling semi-conductor chips and other electronic products mainly for export. Yolanda Boaquina and Juana Gayola started working for API in 1979 and 1988, respectively, as material control clerk and as production operator. During the third quarter of 1992, API commenced negotiations with the duly recognized bargaining agent of its employees, the Federation of Free Workers ("FFW"), for a Collective Bargaining Agreement ("CBA"). A deadlock, however, ensued and the union decided to file a notice of strike. This event prompted the two customers of API, Indala and CP Clare Theta J, to thereupon refrain from sending to API additional kits or materials for assembly. API, given the circumstance that its assembly line had to thereby grind to a halt, was forced to suspend operations pursuant to Article 286[3] of the Labor Code. Private respondents Boaquina and Gayola were among the employees asked to take a leave from work.

Upon the resolution of the bargaining deadlock in October of 1992, a CBA was concluded between API and FFW. The contract was signed on 30 October 1992 by the parties. Respondent Boaquina was directed to report back since her previous assignment pertained to the issuance of raw materials needed for the production of electronic items being ordered by Indala, one of API's client which promptly resumed its business with API. On the other hand, Juana Gayola, among other employees, could not be recalled forthwith because the CP Clare/Theta J account, where she was assigned as the production operator, had yet to renew its production orders.

Inasmuch as its business activity remained critical, API was constrained to implement a company-wide retrenchment affecting one hundred five (105) employees from a work force that otherwise totalled three hundred four (304). The selection was based on productivity/performance standards pursuant to the CBA. Yolanda Boaquina was one of those affected by the retrenchment and API, through

its Personnel Manager Beatriz G. Torro, advised her of such fact in its letter of 29 December 1992. In that letter, Boaquina was informed that her services were to be dispensed with effective 31 January 1993[4] although she did not have to render any service for the month of January she being by then already considered to be on leave with pay. While Juana Gayola was not supposed to be affected by the retrenchment in view of her high performance rating, her services, nevertheless, were considered to have been ended on 04 September 1992[5] when she was ordered by API to take an indefinite leave of absence. She had not since been recalled.

Dissatisfied with their union (FFW), Boaquina and Gayola, together with some of other co-employees, joined the Lakas ng Manggagawa sa Pilipinas Labor Union ("Lakas Union") where they eventually became members of its Board of Directors.

On 06 January 1993, Lakas Union filed a notice of strike against API on the ground of unfair labor practice "(ULP") allegedly committed by the latter, specifically, for union busting, termination of union officers/members, harassment and discrimination.[6] A conciliation meeting was scheduled for 08 January 1993 by the National Conciliation and Mediation Board ("NCMB") to address the problem which meeting, however, was reset to 14 January 1993 for failure of any representative or member of Lakas Union to appear. On 10 January 1993, Lakas Union staged a strike.

Claiming that the strike staged by Lakas Union was illegal, API on 11 January 1993, brought before the NLRC National Capital Region Arbitration a petition, docketed *NLRC NCR Case No. 00-01-00402-93*, for declaration of illegality of the strike. Lakas Union countered that their strike was valid and staged as a measure of self-preservation and as self-defense against the illegal dismissal of petitioners aimed at union busting in the guise of a retrenchment program.

On 23 June 1994, Labor Arbiter Villarente, Jr., to whose sala the case was raffled, promulgated a decision[7] declaring the strike staged by Lakas Union to be illegal. He declared:

> "WHEREFORE, judgment is hereby rendered declaring that the strike staged by respondents Federation of Free Workers and the Lakas Manggagawa ng Pilipinas on January 10, 1993 and thereafter, was ILLEGAL.
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> "Accordingly, all the registered officers of the two respondent-Unions at the time of the strike are hereby declared to have lost their employment status (aside from the fact that ten of them earlier mentioned had settled their cases amicably with petitioner).
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> "Insofar as the striking members are concerned and who did not settle their cases amicably, their separation from the service of petitioner API is hereby declared VALID under the company-wide retrenchment program which was earlier made known to proper authorities.
>
> "SO ORDERED."[8]

Meanwhile, at the instance of several employees which included private respondents Boaquina and Gayola, a complaint for illegal dismissal, violation of labor standards

and separation pay, as well as for recovery of moral and exemplary damages, was filed against API and/or Frank Yih before the NLRC National Capital Region Arbitration Branch. The illegal dismissal case, docketed *NLRC NCR Case No. 00-05-03326* and *No. 00-03-01952-93*, was assigned to Labor Arbiter Potenciano S. Canizares, Jr.

On 22 June 1994, Labor Arbiter Canizares rendered his decision[9] holding petitioners guilty of illegal dismissal. He ordered petitioners to pay private respondent Yolanda Boaquina separation pay of one-half (1/2) month pay for every year of service, plus overtime pay, and to reinstate private respondent Juana Gayola with full backwages from the time her salaries were withheld from her until her actual reinstatement.

The decision of Labor Arbiter Villarente, Jr., and that of Labor Arbiter Canizares were both appealed to the NLRC.

On 20 April 1995, the Third Division of NLRC promulgated its resolution[10] which affirmed the finding of Labor Arbiter Villarente, Jr., that the strike staged by Lakas Union was illegal. On 19 March 1996, the same Third Division of NLRC, in the illegal dismissal case, rendered a decision[11] modifying the decision of Labor Arbiter Canizares by declaring that private respondents were not illegally dismissed but were validly terminated due to the retrenchment policy implemented by API. Accordingly, private respondents were awarded separation pay and an additional one (1) month salary in favor of Juana Gayola by way of indemnity for petitioner API's failure to properly inform her of the retrenchment. The NLRC dismissed the claim of petitioners that private respondents should not be entitled to separation pay because of their involvement in the strike which was declared illegal .

On 01 April 1996, petitioners moved for a reconsideration of the 19th March 1996 NLRC decision; the motion, however, was denied by the NLRC in its resolution of 16 April 1996.

In this recourse, the following issues have been raised by petitioners; to wit:

> "WHETHER OR NOT PRIVATE RESPONDENTS WHO ARE OFFICERS OF THE UNION ARE STILL ENTITLED TO SEPARATION PAY AND INDEMNITY DESPITE HAVING PARTICIPATED IN A STRIKE THAT HAS BEEN DECLARED ILLEGAL?
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> "WHETHER OR NOT A STOCKHOLDER/DIRECTOR/OFFICER OF A CORPORATION CAN BE HELD LIABLE FOR THE OBLIGATION OF THE CORPORATION ABSENT ANY PROOF AND FINDING OF BAD FAITH?"[12]

The position advanced by petitioners on the first issue is bereft of merit. It is quite evident that the termination of employment of private respondents was due to the retrenchment policy adopted by API and not because of the former's union activities. In a letter, dated 29 December 1992, API itself advised respondent Boaquina that she was one of those affected by the retrenchment program of the company and that her services were to be deemed terminated effective 31 January 1993. In their pleadings submitted to Labor Arbiter Canizares, Jr., in connection with the illegal dismissal case, petitioners firmly averred that the services of private respondents were being dispensed with not by reason of their union activities but in view of the