335 Phil. 170

FIRST DIVISION

[G.R. No. 118915, February 04, 1997]

CAPITOL MEDICAL CENTER ALLIANCE OF CONCERNED EMPLOYEES-UNIFIED FILIPINO SERVICE WORKERS, (CMC-ACE-UFSW), PETITIONERS, VS. HON. BIENVENIDO E. LAGUESMA, UNDERSECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT; CAPITOL MEDICAL CENTER EMPLOYEES ASSOCIATION-ALLIANCE OF FILIPINO WORKERS AND CAPITOL MEDICAL CENTER INCORPORATED AND DRA. THELMA CLEMENTE, PRESIDENT, RESPONDENTS.

D E C I S I O N

HERMOSISIMA, JR., J.:

This petition for *certiorari* and prohibition seeks to reverse and set aside the Order dated November 18, 1994 of public respondent Bienvenido E. Laguesma, Undersecretary of the Department of Labor and Employment, in Case No. OS-A-136-94[1] which dismissed the petition for certification election filed by petitioner for lack of merit and further directed private respondent hospital to negotiate a collective bargaining agreement with respondent union, Capitol Medical Center Employees Association-Alliance of Filipino Workers.

The antecedent facts are undisputed.

On February 17, 1992, Med-Arbiter Rasidali C. Abdullah issued an Order which granted respondent union's petition for certification election among the rank-and-file employees of the Capitol Medical Center.[2] Respondent CMC appealed the Order to the Office of the Secretary by questioning the legal status of respondent union's affiliation with the Alliance of Filipino Workers (AFW). To correct any supposed infirmity in its legal status, respondent union registered itself independently and withdrew the petition which had earlier been granted. Thereafter, it filed another petition for certification election.

On May 29, 1992, Med-Arbiter Manases T . Cruz issued an order granting the petition for certification election.[3] Respondent CMC again appealed to the Office of the Secretary which affirmed[4] the Order of the Med-Arbiter granting the certification election.

On December 9, 1992, elections were finally held with respondent union garnering 204 votes, 168 in favor of no union and 8 spoiled ballots out of a total of 380 votes cast. Thereafter, on January 4, 1993, Med-Arbiter Cruz issued an Order certifying respondent union as the sole and exclusive bargaining representative of the rank and file employees at CMC.[5]

Unsatisfied with the outcome of the elections, respondent CMC again appealed to

the Office of the Secretary of Labor which appeal was denied on February 26, 1993.[6] A subsequent motion for reconsideration filed by respondent CMC was likewise denied on March 23, 1993.[7]

Respondent CMC's basic contention was the supposed pendency of its petition for cancellation of respondent union's certificate of registration in Case No. NCR-OD-M-92211-028. In the said case , Med-Arbiter Paterno Adap issued an Order dated February 4, 1993 which declared respondent union's certificate of registration as null and void.[8] However, this order was reversed on appeal by the Officer-in-Charge of the Bureau of Labor Relations in her Order issued on April 13, 1993. The said Order dismissed the motion for cancellation of the certificate of registration of respondent union and declared that it was not only a bona fide affiliate or local of a federation (AFW), but a duly registered union as well. Subsequently, this case reached this Court in Capitol Medical Center, Inc. v. Hon. Perlita Velasco, G. R. No. 110718, where we issued a Resolution dated December 13 , 1993, dismissing the petition of CMC for failure to sufficiently show that public respondent committed grave abuse of discretion.[9] The motion for reconsideration filed by CMC was likewise denied in our Resolution dated February 2, 1994.[10] Thereafter , on March 23, 1994, we issued an entry of judgment certifying that the Resolution dated December 13, 1993 has become final and executory.[11]

Respondent union, after being declared as the certified bargaining agent of the rank-and-file employees of respondent CMC by Med-Arbiter Cruz, presented economic proposals for the negotiation of a collective bargaining agreement (CBA). However , respondent CMC contended that CBA negotiations should be suspended in view of the Order issued on February 4, 1993 by Med-Arbiter Adap declaring the registration of respondent union as null and void. In spite of the refusal of respondent CMC, respondent union still persisted in its demand for CBA negotiations, claiming that it has already been declared as the sole and exclusive bargaining agent of the rank-and-file employees of the hospital.

Due to respondent CMC's refusal to bargain collectively, respondent union filed a notice of strike on March 1, 1993. After complying with the other legal requirements, respondent union staged a strike on April 15, 1993. On April 16, 1993, the Secretary of Labor assumed jurisdiction over the case and issued an order certifying the same to the National Labor Relations Commission for compulsory arbitration where the said case is still pending.[12]

It is at this juncture that petitioner union, on March 24, 1994, filed a petition for certification election among the regular rank-and-file employees of the Capitol Medical Center Inc. It alleged in its petition that: 1) three hundred thirty one (331) out of the four hundred (400) total rank-and-file employees of respondent CMC signed a petition to conduct a certification election; and 2) that the said employees are withdrawing their authorization for the said union to represent them as they have joined and formed the union Capitol Medical Center Alliance of Concerned Employees (CMC-ACE). They also alleged that a certification election can now be conducted as more that 12 months have lapsed since the last certification election was held. Moreover, no certification election was conducted during the twelve (12) months prior to the petition, and no collective bargaining agreement has as yet been concluded between respondent union and respondent CMC despite the lapse of

twelve months from the time the said union was voted as the collective bargaining representative.

On April 12, 1994, respondent union opposed the petition and moved for its dismissal . It contended that it is the certified bargaining agent of the rank-and-file employees of the Hospital, which was confirmed by the Secretary of Labor and Employment and by this Court. It also alleged that it was not remiss in asserting its right as the certified bargaining agent for it continuously demanded the negotiation of a CBA with the hospital despite the latter's avoidance to bargain collectively. Respondent union was even constrained to strike on April 15, 1993, where the Secretary of Labor intervened and certified the dispute for compulsory arbitration. Furthermore, it alleged that majority of the signatories who supported the petition were managerial and confidential employees and not members of the rank-and-file, and that there was no valid disaffiliation of its members, contrary to petitioner's allegations.

Petitioner, in its rejoinder, claimed that there is no legal impediment to the conduct of a certification election as more than twelve (12) months had lapsed since respondent union was certified as the exclusive bargaining agent and no CBA was as yet concluded. It also claimed that the other issues raised could only be resolved by conducting another certification election.

In its surrejoinder, respondent union alleged that the petition to conduct a certification election was improper, immoral and in manifest disregard of the decisions rendered by the Secretary of Labor and by this Court. It claimed that CMC employed "legal obstructionism's" in order to let twelve months pass without a CBA having been concluded between them so as to pave the way for the entry of petitioner union.

On May 12, 1994, Med-Arbiter Brigida Fadrigon, issued an Order granting the petition for certification election among the rank and file employees.[13] It ruled that the issue was the majority status of respondent union. Since no certification election was held within one year from the date of issuance of a final certification election result and there was no bargaining deadlock between respondent union and the employees that had been submitted to conciliation or had become the subject of a valid notice of strike or lock out, there is no bar to the holding of a certification election.[14]

Respondent union appealed from the said Order, alleging that the Med-Arbiter erred in granting the petition for certification election and in holding that this case falls under Section 3, Rule V, Book V of the Rules Implementing the Labor Code.[15] It also prayed that the said provision must not be applied strictly in view of the facts in this case.

Petitioner union did not file any opposition to the appeal.

On November 18, 1994, public respondent rendered a Resolution granting the appeal.[16] He ratiocinated that while the petition was indeed filed after the lapse of one year form the time of declaration of a final certification result, and that no bargaining deadlock had been submitted for conciliation or arbitration, respondent union was not remiss on its right to enter into a CBA for it was the CMC which

refused to bargain collectively.[17]

CMC and petitioner union separately filed motions for reconsideration of the said Order.

CMC contended that in certification election proceedings, the employer cannot be ordered to bargain collectively with a union since the only issue involved is the determination of the bargaining agent of the employees.

Petitioner union claimed that to completely disregard the will of the 331 rank-and-file employees for a certification election would result in the denial of their substantial rights and interests. Moreover, it contended that public respondent's "indictment" that petitioner "capitalize (sic) on the ensuing delay which was caused by the Hospital, . x x x" was unsupported by the facts and the records.

On January 11, 1995, public respondent issued a Resolution which denied the two motions for reconsideration, hence this petition.[18]

The pivotal issue in this case is whether or not public respondent committed grave abuse of discretion in dismissing the petition for certification election, and in directing the hospital to negotiate a collective bargaining agreement with the said respondent union.

Petitioner alleges that public respondent Undersecretary Laguesma denied it due process when it ruled against the holding of a certification election. It further claims that the denial of due process can be gleaned from the manner by which the assailed resolution was written, i. e., instead of the correct name of the mother federation UNIFIED, it was referred to as UNITED; and that the respondent union's name CMCEA-AFW was referred to as CMCEA-AFLO. Petitioner maintains that such errors indicate that the assailed resolution was prepared with "indecent haste."

We do not subscribe to petitioner's contention.

The errors pointed to by petitioner can be classified as mere typographical errors which cannot materially alter the substance and merit of the assailed resolution.

Petitioner cannot merely anchor its position on the aforementioned erroneous' names just to attain a reversal of the questioned resolution . As correctly observed by the Solicitor General, petitioner is merely "nit-picking , vainly trying to make a monumental issue out of a negligible error of the public respondent."[19]

Petitioner also assails public respondents' findings that the former "capitalize (sic) on the ensuing delay which was caused by the hospital and which resulted in the non-conclusion of a CBA within the certification year."[20] It further argues that the denial of its motion for a fair hearing was a clear case of a denial of its right to due process.

Such contention of petitioner deserves scant consideration.

A perusal of the record shows that petitioner failed to file its opposition to oppose the grounds for respondent union's appeal.