

SECOND DIVISION

[G.R. No. 162783, July 14, 2005]

**PHILIPPINE LONG DISTANCE TELEPHONE CO. INC., PETITIONER
VS. MANGGAGAWA NG KOMUNIKASYON SA PILIPINAS AND THE
COURT OF APPEALS, RESPONDENTS.**

DECISION

CHICO-NAZARIO, J.:

Before Us is a petition for review on *certiorari* which seeks the reversal and setting aside of the Decision^[1] and Resolution^[2] of the Court of Appeals dated 25 November 2003 and 19 March 2004, respectively. The said Decision and Resolution nullified the Order of the Secretary of the Department of Labor and Employment (the Secretary) dated 02 January 2003 in NCMB-NCR-NS-11-405-02 and NCMB-NCR-NS-11-412-02 which enjoined the strike staged by the private respondent, and ordered the striking workers to return to work within twenty-four (24) hours, except those who were terminated from service due to redundancy. The exemption of the employees who were terminated from service due to redundancy from the return-to-work order is the hub of the controversy.

THE FACTS

Petitioner Philippine Long Distance Telephone Co., Inc. (PLDT) is a domestic corporation engaged in the telecommunications business. Private respondent *Manggagawa ng Komunikasyon sa Pilipinas* (MKP) is a labor union of rank and file employees in PLDT.

The members of respondent union learned that a redundancy program would be implemented by the petitioner. Thereupon it filed a Notice of Strike with the National Conciliation and Mediation Board (NCMB) on 04 November 2002 (NCMB-NCR-NS-11-405-02).^[3] The Notice fundamentally contained the following:

UNFAIR LABOR PRACTICES, to wit:

1. PLDT's abolition of the Provisioning Support Division. Such action together with the consequent redundancy of PSD employees and the farming out of the jobs to casuals and contractuels, violates the duty to bargain collectively with MKP in good faith.
2. PLDT's unreasonable refusal to honor its commitment before this Honorable Office that it will provide MKP its comprehensive plan/s with respect to personnel downsizing/reorganization and closure of exchanges. Such refusal violates its duty to bargain collectively with MKP in good faith.

3. PLDT's continued hiring of "contractual", "temporary", "project" and "casual" employees for regular jobs performed by union members, resulting in the decimation of the union membership and in the denial of the right to self-organization to the concerned employees.
4. PLDT's gross violation of the legal and CBA provisions on overtime work and compensation.
5. PLDT's gross violation of the CBA provisions on promotions and job grade re-evaluation or reclassification.

On 11 November 2002, another Notice of Strike was filed by the private respondent (NCMB-NCR-NS-11-412-02), which contained the following:

UNFAIR LABOR PRACTICES, to wit:

1. PLDT's alleged restructuring of its GMM Operation Services effective December 31, 2002 and its closure [o]f traffic operations at the Batangas, Calamba, Davao, Iloilo, Lucena, Malolos and Tarlac Regional Operator Services effective December 31, 2002. These twin moves unjustly imperil the job security of 503 of MKP's members and will substantially decimate the parties' bargaining unit. And in the light of PLDT's previous commitment before this Honorable Office that it will provide MKP its comprehensive plan/s with respect to personnel downsizing/reorganization and closure of exchanges and of its more recent declaration that the Davao operator services will not be closed, these moves are treacherous and are thus violative of PLDT's duty to bargain collectively with MKP in good faith. That these moves were effected with PLDT paying only lip service to its duties under Art. Iii, Section 9 of the parties' CBA signifies PLDT's gross violation of said CBA.

A number of conciliation meetings, conducted by the NCMB, National Capital Region, were held between the parties. However, these efforts proved futile.

On 23 December 2002, the private respondent staged a strike. On 31 December 2002, three hundred eighty three (383) union members were terminated from service pursuant to PLDT's redundancy program.

On 02 January 2003, the Secretary, Patricia Sto. Tomas, issued an Order^[4] in NCMB-NCR-NS-11-405-02 and NCMB-NCR-NS-11-412-02. Portions of the Order are reproduced hereunder:

PLDT is the largest telecommunications entity in the Philippines whose operations are closely linked with the country's other telecommunication companies. It operates the country's international gateway system through which overseas telecommunications are made. Its operations are also vital to the services of cellular phone companies. The Company employs more or less 13,000 employees, about 7,000 of whom are members of the union. A work stoppage at PLDT, without doubt, will adversely affect the smooth operations of PLDT as well as those other telecommunication companies dependent upon the continuous operations of PLDT to the detriment of the public.

Undoubtedly, PLDT's operations is impressed with public and national interest as communication plays a vital role in furtherance of trade, commerce, and industry specially at this time of globalized economy where information is vital to economic survival. Work stoppage at PLDT will also adversely effect the ordinary day-to-day life of the public in areas of its franchise. Communication is also a component of state security.

. . .

These considerations have in the past guided this Office in consistently exercising its powers under Article 263(g) of the Labor Code, as amended, in handling labor disputes involving the Philippine Long Distance Telephone Company and other telecommunications companies.

WHEREFORE, FOREGOING PREMISES CONSIDERED, this Office hereby CERTIFIES the labor dispute at the Philippine Long Distance Telephone Company to the National Labor Relations Commission (NLRC) for compulsory arbitration pursuant to Article 263(g) of the Labor Code as amended.

Accordingly, the strike staged by the Union is hereby enjoined. All striking workers are hereby directed to return to work within twenty four (24) hours from receipt of this Order, **except those who were terminated due to redundancy.**^[5] The employer is hereby enjoined to accept the striking workers under the same terms and conditions prevailing prior to the strike. The parties are likewise directed to cease and desist from committing any act that might worsen the situation.

A Motion for Partial Reconsideration^[6] dated 13 January 2003 was filed by the private respondent with the Office of the Secretary. It alleged that the Order dated 02 January 2003 was issued by the Secretary with grave abuse of discretion. It contended that the petitioner should have been ordered to admit all workers under the same terms and conditions prevailing before the strike. Those who were dismissed pursuant to the petitioner's redundancy program should not have been excluded. In doing so, the Secretary, in consequence, prejudged the case and effectively declared the dismissal as valid.

The petitioner filed an Opposition to the "Motion for Partial Reconsideration"^[7] dated 24 January 2003. It asserted that Article 263(g) of the Labor Code refers to a discretionary power on the part of the Secretary, and thus recognizes that the Secretary has broad powers and wide discretion to do as may be necessary to resolve the labor dispute.

On 24 February 2003, the Secretary issued another Order,^[8] quoted hereunder:

In the interest of expeditious labor justice and pursuant to the Order of this Office dated January 2, 2003 certifying the instant labor dispute to the National Labor Relations Commission (NLRC), and in order to avoid any splitting the cause of action and multiplicity of suits, which are obnoxious to the orderly administration of justice, the Motion for Partial

Reconsideration filed by the Union, Manggagawa ng Komunikasyon sa Pilipinas (MKP) is merely NOTED without action.

WHEREFORE, premises considered, let the Motion for Partial Reconsideration, together with documents filed in connection thereto, be immediately referred to the NLRC for its appropriate action.

Henceforth, this Office shall no longer entertain any motions of similar nature. The parties are hereby directed to address all their pleadings and motions to the NLRC.

As the private respondent had no other plain, speedy and adequate remedy in the ordinary course of law, it filed a petition for *certiorari* and *mandamus*^[9] under Rule 65 of the 1997 Rules on Civil Procedure before the Court of Appeals. In the main, it argued that Article 263(g) of the Labor Code is very clear that once a strike is certified to the National Labor Relations Commission (NLRC) for compulsory arbitration, it is the direct mandate of the law that an employer should readmit *all* striking workers under the same terms and conditions prevailing before the strike. It prayed that the Orders of the Secretary dated 02 January 2003 and 24 February 2003 be set aside and, in their place, a new order be rendered directing PLDT to immediately readmit the alleged redundant employees under the same terms and conditions prevailing prior to the strike.

The petitioner filed its Comment^[10] with the Court of Appeals and contended that there was no abuse of discretion when the Secretary issued the two assailed Orders. The Secretary, it asserted, validly exercised the plenary powers granted by Article 263(g) of the Labor Code. This proviso, it pointed out, refers to a discretionary power on the part of the Secretary, and recognizes that the latter has broad powers and wide discretion to do as may be necessary to resolve the labor dispute.

On 25 November 2003, the Court of Appeals promulgated its Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Petition is **GRANTED** and the assailed *Order[s]* of respondent Secretary in NCMB-NCR-NS-11-405-02 and NCMB-NCR-NS-11-412-02 [are] hereby **SET ASIDE** and **NULLIFIED** for being contrary to law. No costs.^[11]

A Motion for Reconsideration^[12] was filed by the petitioner before the Court of Appeals, which was, however, denied in a Resolution^[13] dated 19 March 2004.

The petitioner then filed a Petition for Review on *Certiorari* under Rule 45^[14] before this Court. The private respondent was thereafter required to file its Comment, which it did.

On 01 June 2005, the Court gave due course to the petition, and the case was subsequently submitted for decision.

ASSIGNMENT OF ERRORS

The petitioner assigns as errors the following:

I

THE COURT OF APPEALS DID NOT RULE IN ACCORD WITH APPLICABLE DECISIONS OF THIS HONORABLE COURT, WHICH RECOGNIZE THAT THE SECRETARY'S EXERCISE OF ART. 263(G), LABOR CODE POWERS IS BROAD, PLENARY AND ENTITLED TO RESPECT.

II

THE COURT OF APPEALS DEPARTED FROM THE USUAL COURSE OF PROCEEDINGS WHEN IT ISSUED THE WRIT OF CERTIORARI DESPITE (A) THE ABSENCE OF "GRAVE ABUSE OF DISCRETION" BY THE SECRETARY OF LABOR; AND (B) THE AVAILABILITY OF OTHER RELIEF TO MKP.

III

THE MANIFEST AND GRAVE ERROR OF THE COURT OF APPEALS IS EVIDENT FROM THE DECISION'S INTERNAL INCONSISTENCIES.

1V

CONTRARY TO MKP'S ALLEGATIONS THAT IT WAS RENDERED WITH GRAVE ABUSE OF DISCRETION, THE SECRETARY'S ASSUMPTION ORDER IS PRACTICAL, PRESERVES THE PARTIES' RIGHTS TO REDRESS, AND IS NOT UNPRECEDENTED.^[15]

ISSUES

Culled from the above assignment of errors, the issues that must be addressed by this Court are:

I

WHETHER OR NOT THE SPECIAL CIVIL ACTION FOR *CERTIORARI* INSTITUTED BY THE RESPONDENT BEFORE THE COURT OF APPEALS WAS PROCEDURALLY PRECISE, and

II

WHETHER THE SUBJECT ORDERS OF THE SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT EXCLUDING FROM THE RETURN-TO-WORK ORDER THE WORKERS DISMISSED DUE TO THE REDUNDANCY PROGRAM OF PETITIONER, ARE VALID OR NOT.

THE COURT'S RULINGS

On the procedural issue

The petitioner is of the view that a special civil action for *certiorari* which was instituted by the private respondent before the Court of Appeals was not the proper