

FIRST DIVISION

[G.R. No. 123276, August 18, 1997]

**MARIO TIU AND JONATHAN HAYUHAY, PETITIONER, VS.
NATIONAL LABOR COMMISSION AND REPUBLIC BROADCASTING
SYSTEM, INC. (CHANNEL 7), RESPONDENT.**

D E C I S I O N

PADILLA, J.:

This is a petition for *certiorari* under Rule 65 of the Rules of Court to annul and set aside the resolution of the National Labor Relations Commission (NLRC) dated 28 November 1994 in NCR Case No. 00-08-0453-91 which affirmed the decision of labor arbiter Edgardo Madriaga dated 18 February 1994 holding the strike held by GMA Channel 7 Employees Union (GMAEU) on 2 August 1991 as illegal and declaring the fourteen (14) GMAEU union officers who knowingly participated in the illegal strike to have lost their employment status.

The records show that of the fourteen (14) GMAEU officers involved in the strike, ten (10) officers did not appeal the labor arbiter's decision and opted to avail of the optional retirement benefits under the collective bargaining agreement with private respondent Republic Broadcasting System Inc. (RBS). The remaining four (4) union officers, namely: Mario Tiu, Nani Hayuhay, Bong Cerezo and Virgilio Santoyo, appealed to the NLRC.

From the NLRC decision, Virgilio Santoyo filed a separate petition for *certiorari* before this Court, docketed as G.R. No. 122613. In a resolution dated 31 January 1996, the Court dismissed Santoyo's petition "for failure to sufficiently show that the respondent Commission (NLRC) had committed a grave abuse of discretion in rendering the questioned judgment."

Considering that Santoyo and herein petitioners were dismissed under the same factual circumstance, the Court reviewed the records of G.R. No. 122613 to determine whether the ruling laid therein applies in the case at bar. The Court notes that the issues raised by Santoyo in his petition were procedural in character. Santoyo alleged that he was never represented by counsel in the proceedings both before the labor arbiter and the NLRC and was denied the opportunity to present his evidence. This allegation, however, had no factual basis as the records showed that he was represented by counsel during the entire proceedings below. In contrast, the present petition raised substantive issues concerning the legality or illegality of the strike conducted by GMAEU on 2 August 1991.

The Court required both public and private respondents to file their comment on the petition. Private respondent RBS filed its comment on 23 April 1996 and public respondent NLRC filed its own comment on 9 December 1996. Petitioners filed a reply to both comments on 4 March 1997. Since the parties have exhaustively

argued their position in their respective pleadings, the Court dispensed with the filing of memoranda and considered this case submitted for resolution.

The material and relevant facts are as follows:

RBS had a collective bargaining agreement with GMAEU which took effect on 2 July 1989. After the first quarter of 1991, RBS management noted the huge amount of overtime expense it incurred during the said period, which averaged to ₱363,085.26 monthly. To streamline its operations, the president of RBS created a committee to formulate guidelines on the availment of leaves and rendering of overtime work.

On 11 June 1991, RBS, through its personnel department, furnished GMAEU a copy of the new guidelines and requested the latter to comment thereon. The union did not file any comment. On 25 June 1991, RBS officially issued the implementing guidelines "on the availment of leaves and rendering of overtime services." The following day, GMAEU sent a letter to the president of RBS wherein it argued that:

1. The union was not consulted in the formulation of said guidelines which was clear violation under Sec. 3(c) of the collective bargaining agreement;
2. The guidelines would render nugatory the collective bargaining agreement provisions on the same subject;
3. The diminution of benefits being enjoyed by all employees with respect to the mid-year bonuses (from 2-1/2 months to 1-1/2 months constitutes a withdrawal of an existing company policy).

Thereafter, RBS management and GMAEU officials met on 3 July 1991 and on 10 July 1991 to thresh out the issues raised by GMAEU in its 26 June 1991 letter. Both talks, however, were short lived as the union refused to hold further talks with RBS.

On 12 July 1991, GMAEU filed a Notice of Strike with the National Conciliation and Mediation Board (NCMB) based on unfair labor practices allegedly committed by RBS, as follows:

1. Gross violation of the existing collective bargaining agreement;
2. Employees (members and officers) coercion;
3. Union interference; and
4. Discrimination.

The NCMB set a conciliation meeting on 19 July 1991, but as early as 16 July 1991 the Union held a strike vote among its members and submitted the results thereof to the NCMB on 18 July 1991 which showed that majority of the union members voted to go on strike.

During the conciliation meeting held on 19 July 1991, RBS, through counsel, informed GMAEU's officers that RBS did not violate any provision in the collective bargaining agreement since the issuance of the guidelines was a management prerogative duly recognized in their agreement. As regards GMAEU's charges of coercion, union interference and discrimination, RBS argued that these alleged unfair labor practices were neither raised by the union in its 26 June 1991 letter nor during their 3 July and 10 July 1991 talks. RBS' counsel requested GMAEU's officers to name the persons or officers of RBS involved in the alleged unfair labor practices

and to state the specific act or acts complained of so that RBS management could adequately refute said allegations or impose appropriate disciplinary actions against its erring officers. GMAEU's officers, however, ignored both RBS' and the labor conciliator's requests for a bill of particulars.

In a second conciliation meeting held on 25 July 1991, RBS reiterated its request to GMAEU's officers to furnish RBS the details of the alleged unfair practices committed by RBS' officers. Again, the Union denied RBS' request and refused to hold any further talks with RBS management. On the same day, RBS filed a motion to dismiss GMAEU's notice of strike and forewarned the Union about the consequences of an illegal strike.

On 2 August 1991, the union struck. On the same day, RBS filed a complaint for illegal strike and unfair labor practice against GMAEU and its fourteen (14) officers (hereafter, illegal strike case). The case was docketed as NLRC Case 00-08-04531-91. Meanwhile, the Secretary of Labor immediately assumed jurisdiction over the case, issued a return-to-work order, and certified the case to the NLRC for compulsory arbitration (hereafter, certified case). The case was docketed as NCMB-NCR-050-7-488-91.

In the certified case, the labor arbiter found no factual and legal ground to hold RBS guilty of unfair labor practices against the Union. On appeal (docketed as NLRC-NCR CC No 00076-01), the NLRC affirmed the labor arbiter's decision in a resolution dated 31 July 1992.

Meanwhile, the labor arbiter continued to hear the illegal strike case filed by RBS against GMAEU. On 18 February 1994, the labor arbiter rendered judgment declaring the strike illegal and the union officers who knowingly participated in the illegal strike to have validly lost their employment status based on the following reasons:

a. "The notice of strike did not specifically charge the company (RBS) of unfair labor practices, only *pro forma* allegations of gross violation of the collective bargaining agreement, employees coercion, union interference, and discrimination". It is defective as it consisted of vague and general charges which could not be substantiated and which the company could not properly defend itself against."

b. "The absence of evidence on record that the mandatory cooling-off period and strike vote under the law were complied which renders the strike staged by the respondents illegal *per se* on technical grounds."

c. "On the merits x x x there are no strikeable grounds as there was no bargaining deadlock between the parties. The alleged gross violation of the collective bargaining agreement cannot constitute an unfair labor practice because said charges were bereft of factual and legal basis." "There being no unfair labor practice, it follows that there is no strikeable issue to support the strike conducted by herein respondents (the Union)."

d. The union violated the no strike-no lockout clause of the CBA with RBS; thus rendering the strike held on 2 August 1991 illegal. As aforementioned, the NLRC affirmed the labor arbiter's decision in a resolution dated 28 November 1994.

In their petition, petitioner raised six (6) alleged NLRC errors which ultimately narrow down to one issue-