

SECOND DIVISION

[G.R. No. 119360, October 10, 1997]

**PHILIPPINE AIRLINES, INC., PETITIONER, VS. THE HON.
ACTING SECRETARY OF LABOR JOSE S. BRILLANTES AND THE
PHILIPPINE AIRLINES EMPLOYEES' ASSOCIATION,
RESPONDENTS.
R E S O L U T I O N**

TORRES, JR., J.:

In Our Resolution dated November 18, 1996, the Court dismissed the instant petition for certiorari filed by Philippine Airlines, Inc. (PAL), seeking the termination from employment of certain members and officers of the respondent union PAL Employees' Association (PALEA), for staging a strike in violation of the Secretary of Labor's return to work order.

In doing so, we upheld the March 9, 1995 Order of the respondent Acting Labor Secretary Jose S. Brillantes which meted the penalty of suspension upon eighteen (18) PALEA officers and members for eight months, and directing PAL to reinstate them to their respective posts after they have served their suspension.

The dispositive portion of our decision reads:

"With the denial of the prayer for issuance of a writ of preliminary injunction on June 26, 1995, the court takes note that the union officers concerned have since served their suspensions and returned to service.

"WHEREFORE, in view of the foregoing considerations, the court hereby resolved to DISMISS the petition for certiorari that is G.R. No. 119360. The Order of the respondent Honorable Acting Secretary of Labor Jose S. Brillantes is hereby AFFIRMED.

"SO ORDERED."

On December 27, 1996, PAL filed a Motion for Reconsideration, taking exception to the Court's affirmation of the Acting Secretary's Order. The order for the suspension of the eighteen PALEA officers and members is tagged as a violation of Article 264 of the Labor Code, and contradicts previous decisions of the Court upon the said provision, including; *Philippine Airlines, Inc. vs. Drilon, et. al.* (193 SCRA 223, 1991); *Union of Filipino Employees vs. Nestle Philippines, Inc.* (192 SCRA 396, 1990); *Federation of Free Workers vs. Inciong* (208 SCRA 157, 1992); *St. Scholastica's College vs. Torres* (210 SCRA 565, 1992)

Clearly, the unequivocal rule laid down by the foregoing is that:

"A strike that is undertaken despite the issuance by the Secretary of Labor of an assumption and/or certification is a prohibited activity and thus illegal. The union officers and members, as a result, are deemed to have lost their employment status for having knowingly participated in an illegal act. Stated differently, from the moment a worker defies a return-to-work order, he is deemed to have abandoned his job. The loss of employment status results from the striking employees' own act – an act which is illegal, an act in violation of the law and in defiance of authority."

The loss of employment status allegedly results from the application of the second and third paragraphs of Article 264 of the Labor Code, which, petitioner posits, is mandatory.

"Art. 264. xxx

No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification election or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

Any worker whose employment has been terminated as a consequence of an unlawful lockout shall be entitled to reinstatement with full backwages. Any union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment even if a replacement had been hired by the employer during such lawful strike.

xxx

The Court need not dwell on the hermeneutics of the abovementioned provision of law.

The cases cited by the petitioner leave no doubt as to policy of the state not to tolerate actions directed at the destabilization of the order, where the relationship between labor and management has been endangered by abuse of one party's bargaining prerogative, to the extent of disregarding not only the direct order of the government to maintain the status quo, but the welfare of the entire workforce, though they may not be involved in the dispute. The grave penalty of dismissal visited upon the guilty parties was a natural consequence, considering the interest of public welfare.

In the instant case, there is no doubting the validity of our observation that in the collective bargaining process, not only PALEA, but both parties contributed to the