

THIRD DIVISION

[G.R. No. 104624, October 11, 1996]

**SAN PEDRO HOSPITAL OF DIGOS, INC., PETITIONER, VS.
SECRETARY OF LABOR, THE SAN PEDRO HOSPITAL EMPLOYEES
UNION - NATIONAL FEDERATION OF LABOR, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

When is temporary suspension of business considered not done in good faith? Can the Secretary of Labor compel management to enter into a new collective bargaining agreement with the union while the business enterprise is undergoing a temporary suspension of operations? Can the Secretary grant backwages without deciding the legality of a strike?

These questions are addressed by the Court in resolving this Petition for Certiorari, which seeks nullification of the Orders dated October 16, 1991^[1] and January 31, 1992^[2] of the Secretary of Labor and Employment^[3] rendered in DOLE Case No. NCMB-RBXI-NS-03-017-91 entitled "*In Re: Labor Dispute at San Pedro Hospital of Digos*". Said orders directed herein petitioner hospital to pay backwages for the period from June 21, 1991, to December 15, 1991 to returning workers who are members of San Pedro Hospital Employees Union and to enter into a new collective bargaining agreement with the union.

The Facts

Petitioner San Pedro Hospital of Digos, Inc. is a charitable, non-stock, non-profit medical and educational training corporation. Petitioner had a three-year collective bargaining agreement (CBA) covering the period December 15, 1987 until December 15, 1990,^[4] with herein private respondent, *Nagkahiusang Mamumuo sa San Pedro Hospital of Digos - National Federation of Labor* (NAMASAP-NFL), the exclusive bargaining agent of the hospital's rank-and-file workers.

On February 12, 1991, the parties formally commenced negotiations for the renewal of their CBA, and presented their respective proposals. The union's demands included wage increases and inclusion in the CBA of a provision for union shop.^[5]

Respondent union proposed a cumulative salary increase of sixty pesos per day for three years, broken down as follows: (a) thirty pesos per day for the first year; (b) twenty pesos per day for the second year; and (c) ten pesos per day for the third year. Petitioner, claiming it was incurring losses on account of a serious financial crisis, counter-offered an increase of two pesos per day for each of the three years of the new CBA, with a wage reopening clause. Petitioner also adamantly opposed the proposal for a union security clause.

After the parties failed to reach agreement on the issues, the union during the meeting of February 19, 1991 declared a deadlock.

On February 20, 1991, respondent union saturated petitioner's premises with streamers and picketed the hospital. The operations of the hospital having come to a grinding halt, the hospital management considered the union actions as tantamount to a strike. However, it was only on March 4, 1991 that respondent union filed a Notice of Strike with the National Conciliation and Mediation Board (NCMB). On April 10, 11, and 18, 1991, the NCMB held conciliation conferences but failed to settle the deadlock, as the parties remained adamant in their positions.^[6]

On May 28, 1991, respondent union struck. Despite the NCMB's call for a conciliation conference, nurses and nurse aides who were members of the union abandoned their respective departments and joined the picket line a week later. Doctors began leaving the hospital and the number of patients dwindled. The last patient was discharged on June 10, 1991.

On June 12, 1991, a "Notice of Temporary Suspension of Operations" was issued by petitioner hospital and submitted to the local office of the NCMB on June 14, 1991. Similar notices were individually delivered to union members, but only fourteen out of the seventy-four rank-and-file employees/union members acknowledged receipt thereof. Petitioner also alleged that on June 13, 1991, the resident/consultant physicians abandoned the hospital because there were no more patients.^[7]

On the same day, June 13, 1991, then Secretary of Labor Nieves Confesor assumed jurisdiction over the labor dispute and issued an order^[8] providing that:

"WHEREFORE, ABOVE PREMISES CONSIDERED, this Office hereby assumes jurisdiction over the entire labor dispute at the San Pedro Hospital of Digos.

Accordingly, all striking workers are hereby directed to return to work within twenty-four (24) hours from receipt of a copy of this Order and for the Hospital to accept all returning workers under the same terms and conditions of employment existing prior to the work stoppage.

The parties are likewise directed to cease and desist from committing any act that may aggravate the prevailing precarious situation.

To expedite the resolution of this dispute, the partes are directed to submit their respective position papers and evidence within ten (10) days from receipt of this Order."

However, this order was received by petitioner only on June 20, 1991. In the meantime, it had already notified the DOLE via its letter dated June 13, 1991, which was received by the DOLE on June 14, 1991, that it would temporarily suspend operations for six (6) months effective June 15, 1991, or up to December 15, 1991. Petitioner thus refused the return of its striking workers on account of such suspension of operations.

Several conferences were held by the NCMB Conciliator where petitioner stated it would submit the necessary documents showing its serious financial condition

"should the need be in earnest".^[9]

On June 24, 1991, respondent union through its legal counsel wrote the Executive conciliator/Mediator of the NCMB in Davao City informing the latter that the union members were willing to return to their former work assignments at the hospital in compliance with the June 13, 1991 order of the Labor Secretary.

On June 27, 1991, petitioner filed its position paper in which it maintained that the aforementioned order to accept all returning workers had become moot and academic in view of the suspension of its operations. Moreover, said order could not substitute for (and override) the decision of the petitioner hospital's Board of Trustees to suspend operations for six months, such decision being purely a management prerogative.^[10]

Respondent union filed its own position paper on July 13, 1991 alleging that its very existence was threatened because management was convincing new employees not to join respondent union; that the union shop provision was necessitated precisely because of management's actuations; that petitioner was not in serious financial condition; and that petitioner acted in bad faith and circumvented the return-to-work order when it suspended operations.^[11]

On October 11, 1991, DOLE Secretary Ruben D. Torres went to Digos, Davao del Sur and met respondent union's officers and members in a restaurant; petitioner was not represented in that meeting. The Secretary also visited the hospital without notice to petitioner.

Shortly thereafter, on October 16, 1991, Secretary Torres resolved the labor dispute and issued the questioned Order, wherein he ruled that the suspension of operations was not for a valid or justifiable cause but was actually for the purpose of defeating the worker's right to self-organization. But because the hospital had actually ceased operations, he held that it would be unjust and a sheer abuse of discretion to compel the hospital to continue operations and accept the returning workers, as it would infringe on petitioner's inherent right to manage and conduct its own business affairs. He thus decided to grant, by way of penalty, backwages for the workers from June 21, 1991, the date they were refused admittance by petitioner, until December 15, 1991, the expiration of the temporary suspension of the hospital's operation.^[12]

Sec. Torres also enjoined petitioner to enter into a new CBA with respondent union and to adopt and incorporate therein a union shop provision because it was proven that petitioner had intervened in the workers' right to join or not to join a labor organization of their own choosing.^[13] Petitioner was also directed to grant a wage increase of P3.00 each for the first three years of the new CBA. This last directive was prompted by the finding that petitioner's Financial Statements for the years 1989 and 1990 (copies of which, incidentally, were submitted not by petitioner but by respondent union) showed that although petitioner incurred a loss of some P200,000 in 1990, its Balance Sheet revealed that it had a Fund Balance (Retained Earnings) of P3,159,791.00 as of year-end 1990, and therefore, it was financially capable of granting an increase in its employees' wages.^[14]

The dispositive portion of Secretary Torres' Order reads:^[15]

"WHEREFORE, judgment is hereby rendered:

1. Ordering the hospital to pay the wages of the returning workers who are members of the Union covering the period 21 June 1991 to 15 December 1991; and,
2. Ordering the parties to enter and formalize a new collective bargaining agreement (CBA) embodying therein the dispositions hereinabove set forth as well as the provisions of the old CBA not otherwise touched upon by this Order."

On November 4, 1991, petitioner filed a Motion for Reconsideration of the abovequoted Order alleging that: (1) the Office of the Secretary of Labor had no jurisdiction to resolve the issue of the legality or illegality of the union's strike [since, in ordering the payment of backwages, he in effect ruled on the legality of the strike, which he was not authorized to do, jurisdiction therefor pertaining only to labor arbiters]; (2) the union members were not entitled to backwages because the temporary cessation of petitioner's operation suspended the employer-employee relationship between the union members and petitioner; and (3) petitioner could not be obligated to enter into a new CBA because said employer-employee relationship no longer existed.

On December 15, 1991, petitioner formally ceased operations. Notices of its permanent closure were sent to NCMB and individual rank-and-file employees.

On January 31, 1992, the Secretary denied the Motion for Reconsideration, holding among other things that his Order of October 16, 1991 did not rule on the legality of the strike. Hence, this petition filed under Rule 65 of the Revised Rules of Court.

The Issues

Petitioner alleges that the Secretary of Labor gravely abused his discretion thus:^[16]

- "1. xxx when he issued the two orders, subject of this case, without affording the hospital the opportunity to present evidence on its behalf.
2. xxx in ordering the hospital to execute a new collective bargaining agreement with the union knowing fully well, as he himself conceded, that the hospital had actually ceased operations.
3. xxx in ordering the hospital to pay backwages to the members of the union; for in doing so, said public respondent to all intents and purposes ruled that the strike staged by the union was legal."

The main question is whether the Secretary of Labor and Employment acted correctly in issuing the Orders of October 16, 1991 and January 31, 1992.

The Court's Ruling

First issue: Petitioner Was Afforded Opportunity to Present Evidence

Petitioner alleges that it was never given an opportunity to present its evidence, and that the Order of October 16, 1991 was influenced by the Secretary of Labor's meeting with the officers and members of respondent union when the former went to Digos, Davao del Sur on October 11, 1991.

Admittedly, Secretary Torres did visit petitioner's premises without notice to see for himself the actual situation therein obtaining. However, the evidence on record clearly shows that, contrary to petitioner's allegation, it was afforded opportunity to present its evidence, and that the Secretary's visit and meeting were not the reasons for the ruling in favor of respondent union, nor did they affect said Order. One, the assumption order of Secretary Confessor *inter alia* directed the parties to submit their respective position papers and evidence to enable the Secretary to resolve the dispute.^[17] Two, petitioner submitted its position paper where it questioned the authenticity of the said order claiming that it (petitioner) received only an uncertified photocopy, and informed the Secretary of its suspension of operations.^[18] It did not bother to prove its serious financial condition and thereby justify its suspension of operations and its refusal to accede to the demanded wage increases. Respondent union, on the other hand, attached a copy of petitioner's financial statements to its position paper to show that petitioner was not in dire financial straits as it had a significant fund balance in 1990. Respondent union further alleged that petitioner could have afforded the wage increases since it had previously proposed an increase of P2.00 every year for each year of the new CBA which it later reduced to just P2.00 for three years. Also attached were the affidavits of Armand Anthony Gallardo, staff nurse, and Evangeline Montues, pharmacist, to show that petitioner had been persuading the new regular workers not to join respondent union.^[19]

(In its Supplemental Position Paper, respondent union also alleged that when it struck, it complied fully with the law on strikes because a skeletal force was left to man the hospital and the gate was left open and not barricaded, and that it was petitioner that refused to admit patients and hired replacements for the strikers. It also alleged that the doctors did not withdraw from the hospital because it happened to be the best equipped in the locality.^[20])

Three, based on these pleadings and supporting papers, the Secretary noted that petitioner hospital did not discuss and support its claim of serious financial crisis on account of losses incurred, necessitating temporary suspension of operations. He thus found that the temporary suspension was to avoid compliance with the return-to-work order, and not due to the supposed financial hemorrhage. His October 16, 1991 Order stated as follows:^[21]

"In the case under consideration, the Hospital failed to meet the conditional requirements that would justify the temporary cessation of its operations. To be sure, the facts and circumstances attendant to this case do not warrant a finding that the temporary suspension of the hospital's operations was for a valid or justifiable cause, and not for the purpose of defeating the rights of the workers to self-organization. This conclusion finds support from the following undisputed facts:

First, during the CBA negotiation and immediately prior to the closure,