

## THIRD DIVISION

[ G.R. No. 167401, July 05, 2010 ]

**BAGONG PAGKAKAISA NG MANGGAGAWA NG TRIUMPH INTERNATIONAL, REPRESENTED BY SABINO F. GRAGANZA, UNION PRESIDENT, AND REYVILOSA TRINIDAD, PETITIONERS, VS. SECRETARY OF THE DEPARTMENT OF LABOR AND EMPLOYMENT AND TRIUMPH INTERNATIONAL (PHILS.), INC., RESPONDENTS.**

[G.R. NO. 167407]

**TRIUMPH INTERNATIONAL (PHILS.), INC., PETITIONER, VS. BAGONG PAGKAKAISA NG MANGGAGAWA NG TRIUMPH INTERNATIONAL, ELOISA FIGURA, JERRY JAICTEN, ROWELL FRIAS, MARGARITA PATINGO AND ROSALINDA OLANGAR, RESPONDENTS.**

### D E C I S I O N

**BRION, J.:**

Before the Court are two separate petitions<sup>[1]</sup> which were consolidated pursuant to our Resolution dated June 8, 2005.<sup>[2]</sup> The *first*,<sup>[3]</sup> filed by the Bagong Pagkakaisa ng Manggagawa ng Triumph International (*union*), seeks to set aside the decision<sup>[4]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 60516, and the subsequent resolution<sup>[5]</sup> of March 10, 2005, on the parties' motion for reconsideration. The *second*,<sup>[6]</sup> filed by Triumph International (Phils.), Inc. (*company*), prays for the annulment of the same decision and resolution with respect to the illegal dismissal issue.

### THE ANTECEDENTS

The relevant facts, clearly laid out in the challenged CA decision, are summarized below.

The union and the company had a collective bargaining agreement (*CBA*) that expired on July 18, 1999. The union seasonably submitted proposals to the company for its renegotiation. Among these proposals were economic demands for a wage increase of P180.00 a day, spread over three (3) years, as follows: P70.00/day from July 19, 1999; P60.00/day from July 19, 2000, and P50.00/day from July 19, 2001. The company countered with a wage increase offer, initially at P42.00 for three years, then increased it to P45.00, also for three years.

The negotiations reached a deadlock, leading to a Notice of Strike the union filed on October 15, 1999.<sup>[7]</sup> The National Conciliation and Mediation Board (*NCMB*) exerted

efforts but failed to resolve the deadlock.

On November 15, 1999, the company filed a Notice of Lock-out<sup>[8]</sup> for unfair labor practice due to the union's alleged work slowdown. The union went on strike three days later, or on November 18, 1999.

On January 27, 2000, Secretary Bienvenido E. Laguesma (*Labor Secretary*) of the Department of Labor and Employment (*DOLE*) assumed jurisdiction over the labor dispute, pursuant to Article 263(g) of the Labor Code.<sup>[9]</sup> The Labor Secretary directed all striking workers to return to work within twenty-four (24) hours from receipt of the assumption order, while the company was directed to accept them back to work under the same terms and conditions existing before the strike. The Labor Secretary also required the parties to submit their respective position papers.

On February 2 and 3, 2000, several employees attempted to report for work, but the striking employees prevented them from entering the company premises.

In a petition dated February 8, 2000,<sup>[10]</sup> the company asked the Labor Secretary to issue an order directing the union to allow free ingress to and egress from the company premises; to dismantle all structures obstructing free ingress and egress; and, to deputize the Philippine National Police to assist the DOLE in the peaceful implementation of the Labor Secretary's January 27, 2000 order.

The Labor Secretary reiterated his directives in another order dated February 22, 2000,<sup>[11]</sup> and deputized Senior Superintendent Manuel A. Cabigon, Director of the Southern Police District, *"to assist in the peaceful and orderly implementation of this Order."*

At a conciliation meeting held on February 29, 2000, the company agreed to extend the implementation of the return-to-work order until March 6, 2000.<sup>[12]</sup> The union, through a letter dated March 2, 2000,<sup>[13]</sup> advised the NCMB Administrator of the union executive board's decision to return to work the following day. In a letter also dated March 2, 2000,<sup>[14]</sup> the company advised the NCMB Administrator that it was willing to accept all returning employees, without prejudice to whatever legal action it may take against those who committed illegal acts. The company also stated that all the union officers and members and the union board members would be placed under preventive suspension, pending investigation of their alleged illegal acts.

The striking employees returned to work on March 3 and 4, 2000 but twenty (20) union officers and a shop steward were not allowed entry into the company premises. The excluded union leaders were each served identical letters<sup>[15]</sup> directing them to explain in writing why their employment should not be terminated or why no disciplinary action should be imposed on them for defying and violating the Labor Secretary's assumption order of January 27, 2000 and the second return-to-work order of February 22, 2000; for blocking and resisting the entry of returning employees on February 2, 3, and 8, 2000; for acts of violence committed on February 24 and 25, 2000; and for defying the company's return-to-work order of all employees on February 8, 2000.<sup>[16]</sup>

On March 6, 2000, the twenty-one (21) union officers, by motion, asked the Labor

Secretary to issue a reinstatement order and to cite the company for contempt. On March 9, 2000, the Labor Secretary directed the company to accept the union officers and the shop steward back to work, without prejudice to the continuation of the investigation.<sup>[17]</sup>

At the conciliation meeting of March 15, 2000, the company agreed to reinstate the union officers in the payroll effective March 13, 2000<sup>[18]</sup> and withdrew its notice of lockout.<sup>[19]</sup>

On March 21, 2000, the union officers again received identically worded letters requiring them to explain in writing within twenty-four (24) hours why no disciplinary action, including dismissal, should be taken against them for leading, instigating, and participating in a deliberate work slowdown during the CBA negotiations.<sup>[20]</sup>

The union officers explained, as required, through their respective affidavits,<sup>[21]</sup> and a hearing followed on May 5, 2000. Thereafter, the union officers were each served a notice of termination of employment effective at the close of office hours on May 11, 2000.<sup>[22]</sup>

On June 8, 2000, the union and the officers filed a petition to cite the company and its responsible officers for contempt, and moved that a reinstatement order be issued.<sup>[23]</sup> They claimed that: (1) the company officials violated the Labor Secretary's return-to-work order when these officials placed them under preventive suspension and refused them entry into the company premises; (2) the company also violated the March 9, 2000 order of the Labor Secretary when they were reinstated only in the payroll; and (3) the company committed unfair labor practice and dismissed them without basis.

### **THE LABOR SECRETARY'S DECISION**

The Labor Secretary resolved the bargaining deadlock<sup>[24]</sup> and awarded a wage increase of P48.00 distributed over three years, as follows:<sup>[25]</sup>

Effective July 19, 1999 - P15.00/day  
Effective July 19, 2000 - P16.00/day  
Effective July 19, 2001 - P17.00/day

The union's other economic demands and non-economic proposals were all denied.

The union moved for the reconsideration<sup>[26]</sup> of the Labor Secretary's decision, while the company moved for its own partial reconsideration.<sup>[27]</sup> The Labor Secretary denied both motions, declaring that the petition to cite the company and its responsible officers for contempt had already been rendered moot and academic.<sup>[28]</sup> He also ruled that the legality of the union officers' dismissal properly falls within the original and exclusive jurisdiction of the labor arbiter under Article 217 of the Labor Code.

The union elevated the case to the CA, through a petition for *certiorari* under Rule 65 of the Rules of Court,<sup>[29]</sup> on the following grounds:

1. The Labor Secretary committed grave abuse of discretion amounting to lack or excess of jurisdiction when he denied the proposals of the 1,130 union members to improve the existing CBA.
2. The Labor Secretary committed grave abuse of discretion when he declared that the issue of reinstatement of the officers of the union and the petition to cite the company and its responsible officers for contempt had become academic.

The union insisted on its demanded P180.00 daily wage increase distributed over three years (1999 to 2001), arguing that the demand is just, fair and reasonable based on the company's capacity to pay and the company's bargaining history. It noted that the company gave a P55.00 increase for the years 1993-1995, and P64.00 for the years 1996 to 1998. It also objected the rejection of its other economic demands and non-economic proposals.

The union also contended that the company and its responsible officers should have been held in contempt for violating the Labor Secretary's return-to-work order. It argued that the officers should have been reinstated in the absence of substantial evidence supporting the charges against them.

The company responded by praying for the dismissal of the petition for lack of abuse of discretion on the part of the Labor Secretary. It posited that the P48.00 wage increase award is more than reasonable, and that the Labor Secretary properly stayed his hand on the issue of illegal dismissal as the matter was beyond his jurisdiction. The company likewise argued that any question on the award had been mooted by the workers' acceptance of the wage increase.

While the petition was pending, individual settlements were reached between certain individual petitioners (Cenon N. Dionisio, Catalina N. Velasquez, Nila P. Tresvalles, Vivian A. Arcos, Delia N. Soliven, Leticia S. Santos, Emerita D. Maniebo, Conchita R. Encinas, Elpidia C. Cancino, Consolacion S. Umalia, Nenette N. Gonzales, Creselita D. Rivera, and Rolando O. Madera) and the company. These petitioners executed their respective Release, Waiver and Quitclaim after receiving their separation pay and other benefits from the company.<sup>[30]</sup>

In light of these developments and the workers' acceptance of the wage award (except for the union officers), the company moved for the dismissal of the petition.<sup>[31]</sup> The union and the remaining union officers opposed the motion, contending that the workers' acceptance of the awarded wage increase cannot be considered a waiver of their demand; the receipt of the P48.00 award was merely an advance on their demand. The Release, Waiver and Quitclaim executed by the 13 officers, on the other hand, cannot bind the officers who opted to maintain the petition.

On December 17, 2001, two more officers - Juliana D. Galo and Remedios C. Barque - also executed their respective Release, Waiver and Quitclaim.<sup>[32]</sup>

## **THE CA DECISION**

The CA found the petition partly meritorious. It affirmed the Labor Secretary's wage increase award, but modified his ruling on the dismissal of the union officers.<sup>[33]</sup>

On the wage issue and related matters, the CA found the Labor Secretary's award legally in order. It noted the following factors supportive of the award:

1. The average daily salary of an employee of P310.00 is more than the statutory minimum wage as admitted by the union itself.
2. The company grants to its employees forty-two (42) other monetary and welfare benefits.
3. The increase in the wages of the employees carries with it a corresponding increase in their salary-based benefits.
4. The wage increase granted to workers employed in the industry is less than the increase proposed by the company.
5. The Asian financial crisis.

The CA also noted that, in the meantime, the parties had executed a new CBA for the years 2002 to 2005 where they freely agreed on a total P45.00/day wage increase distributed over three years.

On the other hand, the CA faulted the Labor Secretary for not ruling on the dismissal of the union officers. It took exception to the Labor Secretary's view that the dismissal question is within the exclusive jurisdiction of the labor arbiter pursuant to Article 217 of the Labor Code. It invoked the ruling of this Court in *Interphil Laboratories Employees Union-FFW v. Interphil Laboratories, Inc.*,<sup>[34]</sup> which, in turn, cited *International Pharmaceuticals, Inc. v. Secretary of Labor*,<sup>[35]</sup> where we held that the Labor Secretary has jurisdiction over all questions and controversies arising from an assumed dispute, including cases over which the labor arbiter has exclusive jurisdiction.

The CA pointed out that while the labor dispute before the Labor Secretary initially involved a bargaining deadlock, a related strike ensued and charges were brought against the union officers (for defiance of the return-to-work order of the Labor Secretary, and leading, instigating, and participating in a deliberate work slowdown during the CBA negotiations) resulting in their dismissal from employment; thus, the dismissal is intertwined with the strike that was the subject of the Labor Secretary's assumption of jurisdiction.

The CA, however, avoided a remand of the illegal dismissal aspect of the case to the Labor Secretary on the ground that it would compel the remaining six officers, lowly workers who had been out of work for four (4) years, to go through the "calvary" of a protracted litigation. In the CA's view, it was in keeping with justice and equity for it to proceed to resolve the dismissal issue itself.