

## SECOND DIVISION

[ G. R. No.101738, April 12, 2000 ]

**PAPER INDUSTRIES CORPORATION OF THE PHILIPPINES,  
PETITIONER, VS. HON. BIENVENIDO E. LAGUESMA,  
UNDERSECRETARY OF LABOR AND EMPLOYMENT, HON. HENRY  
PABEL, DIRECTOR OF THE DEPARTMENT OF LABOR AND  
EMPLOYMENT REGIONAL OFFICE NO. XI AND/OR THE  
REPRESENTATION OFFICER OF THE INDUSTRIAL RELATIONS  
DIVISION WHO WILL ACT FOR AND IN HIS BEHALF, PCOP-  
BISLIG SUPERVISORY AND TECHNICAL STAFF EMPLOYEES  
UNION, ASSOCIATED LABOR UNION AND FEDERATION OF FREE  
WORKERS, RESPONDENTS.**

### DECISION

**DE LEON, JR., J.:**

Before us is a petition for certiorari seeking to annul the Resolution<sup>[1]</sup> and the Order<sup>[2]</sup> dated April 17, 1991 and August 7, 1991, respectively, of public respondent Bienvenido E. Laguesma, acting then as Undersecretary, now the Secretary, of the Department of Labor and Employment (DOLE), which reversed the Order dated March 27, 1990<sup>[3]</sup> of Med-Arbiter Phibun D. Pura declaring that supervisors and section heads of petitioner under its new organizational structure are managerial employees and should be excluded from the list of voters for the purpose of a certification election among supervisory and technical staff employees of petitioner.<sup>[4]</sup>

The facts of the case are the following:

Petitioner Paper Industries Corporation of the Philippines (PICOP) is engaged in the manufacture of paper and timber products, with principal place of operations at Tabon, Bislig, Surigao del Sur. It has over 9,000<sup>[5]</sup> employees, 944<sup>[6]</sup> of whom are supervisory and technical staff employees. More or less 487 of these supervisory and technical staff employees are signatory members of the private respondent PICOP-Bislig Supervisory and Technical Staff Employees Union (PBSTSEU).<sup>[7]</sup>

On August 9, 1989. PBSTSEU instituted a Petition<sup>[8]</sup> for Certification Election to determine the sole and exclusive bargaining agent of the supervisory and technical staff employees of PICOP for collective bargaining agreement (CBA) purposes.

In a Notice<sup>[9]</sup> dated August 10, 1989, the initial hearing of the petition was set on August 18, 1989 but it was reset to August 25, 1989, at the instance of PICOP, as it requested a fifteen (15) day period within which to file its comments and/or position paper. But PICOP failed to file any comment or position paper. Meanwhile, private respondents Federation of Free Workers (FFW) and Associated Labor Union (ALU)

filed their respective petitions for intervention.

On September 14, 1989, Med-Arbiter Arturo L. Gamolo issued an Order<sup>[10]</sup> granting the petitions for interventions of the FFW and ALU. Another Order<sup>[11]</sup> issued on the same day set the holding of a certification election among PICOP's supervisory and technical staff employees in Tabon, Bislig, Surigao del Sur, with four (4) choices, namely: (1) PBSTSEU; (2) FFW; (3) ALU; and (4) no union.

On September 21, 1989, PICOP appealed<sup>[12]</sup> the Order which set the holding of the certification election contending that the Med-Arbiter committed grave abuse of discretion in deciding the case without giving PICOP the opportunity to file its comments/answer, and that PBSTSEU had no personality to file the petition for certification election.

After PBSTSEU filed its Comments<sup>[13]</sup> to petitioner's appeal, the Secretary of the Labor<sup>[14]</sup> issued a Resolution<sup>[15]</sup> dated November 17, 1989 which upheld the Med-Arbiter's Order dated September 17, 1989, with modification allowing the supervising and staff employees in Cebu, Davao and Iligan City to participate in the certification election.

During the pre-election conference on January 18, 1990, PICOP questioned and objected to the inclusion of some section heads and supervisors in the list of voters whose positions it averred were reclassified as managerial employees in the light of the reorganization effected by it.<sup>[16]</sup> Under the Revised Organizational Structure of the PICOP, the company was divided into four (4) main business groups, namely: Paper Products Business, Timber Products Business, Forest Resource Business and Support Services Business. A vice-president or assistant vice-president heads each of these business groups. A division manager heads the divisions comprising each business group. A department manager heads the departments comprising each division. Section heads and supervisors, now called section managers and unit managers, head the sections and independent units, respectively, comprising each department.<sup>[17]</sup> PICOP advanced the view that considering the alleged present authority of these section managers and unit managers to hire and fire, they are classified as managerial employees, and hence, ineligible to form or join any labor organization.<sup>[18]</sup>

Following the submission by the parties of their respective position papers<sup>[19]</sup> and evidence<sup>[20]</sup> on this issue, Med-Arbiter Phibun D. Pura issued an Order<sup>[21]</sup> dated March 27, 1990, holding that supervisors and section heads of the petitioner are managerial employees and therefore excluded from the list of voters for purposes of certification election.

PBSTSEU appealed<sup>[22]</sup> the Order of the Med-Arbiter to the Office of the Secretary, DOLE. ALU likewise appealed.<sup>[23]</sup> PICOP submitted evidence militating against the appeal.<sup>[24]</sup> Public respondent Bienvenido E. Laguesma, acting as the then Undersecretary of Labor, issued the assailed Order<sup>[25]</sup> dated April 17, 1991 setting aside the Order dated March 27, 1990 of the Med-Arbiter and declaring that the subject supervisors and section heads are supervisory employees eligible to vote in the certification election.

PICOP sought<sup>[26]</sup> reconsideration of the Order dated April 7, 1991. However, public respondent in his Order<sup>[27]</sup> dated August 7, 1991 denied PICOP's motion for reconsideration.

Hence, this petition.

PICOP anchors its petition on two (2) grounds, to wit:

I.

THE PUBLIC RESPONDENT HONORABLE BIENVENIDO E. LAGUESMA, UNDERSECRETARY OF LABOR AND EMPLOYMENT, IN A CAPRICIOUS, ARBITRARY AND WHIMSICAL EXERCISE OF POWER ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION, TANTAMOUNT TO ACTING WITHOUT OR IN EXCESS OF JURISDICTION WHEN HE DENIED YOUR PETITIONER'S PLEA TO PRESENT ADDITIONAL EVIDENCE TO PROVE THAT SOME OF ITS MANAGERIAL EMPLOYEES ARE DISQUALIFIED FROM JOINING OR FORMING A UNION REPRESENTED BY CO-RESPONDENT PBSTSEU, IN VIEW OF A SUPERVENING EVENT BROUGHT ABOUT BY THE CHANGES IN THE ORGANIZATIONAL STRUCTURE OF YOUR PETITIONER WHICH WAS FULLY IMPLEMENTED IN JANUARY 1991 AFTER THE CASE WAS ELEVATED ON APPEAL AND SUBMITTED FOR DECISION.

II.

THE PUBLIC RESPONDENT, HONORABLE BIENVENIDO E. LAGUESMA, ALSO ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION, TANTAMOUNT TO ARBITRARILY ACTING WITHOUT OR IN EXCESS OF JURISDICTION WHEN HE TOTALLY DISREGARDED THE DOCUMENTARY EVIDENCE SO FAR SUBMITTED BY YOUR PETITIONER AND RELIED MAINLY ON THE UNSUBSTANTIATED CLAIM AND MERE ALLEGATIONS OF PRIVATE RESPONDENT, PBSTSEU, THAT THE REORGANIZATION OF YOUR PETITIONER WAS A SHAM AND CALCULATED MERELY TO FRUSTRATE THE UNIONIZATION OF YOUR PETITIONER'S SUPERVISORY PERSONNEL; AND SOLELY ON THIS BASIS, DENIED YOUR PETITIONER'S URGENT MOTION FOR RECONSIDERATION.<sup>[28]</sup>

PICOP's main thesis is that the positions Section Heads and Supervisors, who have been designated as Section Managers and Unit Managers, as the case may be, were converted to managerial employees under the decentralization and reorganization program it implemented in 1989. Being managerial employees, with alleged authority to hire and fire employees, they are ineligible for union membership under Article 245<sup>[29]</sup> of the Labor Code. Furthermore, PICOP contends that no malice should be imputed against it for implementing its decentralization program only after the petition for certification election was filed inasmuch as the same is a valid exercise of its management prerogative, and that said program has long been in the drawing boards of the company, which was realized only in 1989 and fully implemented in 1991. PICOP emphatically stresses that it could not have conceptualized the decentralization program only for the purpose of "thwarting the right of the concerned employees to self-organization."