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THE WORKER BEFORE THE CIR

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IN pursuance of the provision of the Constitution that the State may provide for compulsory arbitration, Commonwealth Act No. 103 was approved in 1936 creating the Court of Industrial Relations with broad powers to settle industrial and agricultural dispute through conciliation and compulsory arbitration.

The Court is fifteen years old now and, except for a small minority, the Filipino workers have come to regard it as a friend and protector. Created primarily to afford protection to labor, it has not overlooked the welfare of employers and of the general public.

Originally, the Court had only one judge, but at present it is composed of five judges, and still there is a need of increasing the number in view of the mounting number of cases reaching the Court.

The Court has on its staff a number of lawyers who help the judges in receiving evidence and who are usually the ones commissioned to investigate industrial and tenancy disputes in the provinces and to submit to the Court a report on the facts in each case.

A single industrial worker can have no recourse to the Court. The Court may take cognizance of an industrial dispute only if it involves more than 30 workers under one employer. In tenancy cases, however, the

number of persons involved is immaterial. It is because jurisdiction over such cases is conferred upon the Court not only by C.A. No. 103 but also by C.A. No. 461, as amended and modified by C.A. No. 608 and Rep. Act No. 44. Originally, tenancy cases were handled in the first instance by the defunct Tenancy Law Enforcement Division of the Department of Justice whose decisions were appealable to the CIR, but in 1951 said division was incorporated with the Court as a result of the general reorganization of the National Government.

The workers do not have to be affiliated with any trade union before they can sue or be sued in the Court. It is enough that they fulfill the jurisdictional requirement as to number in case the dispute is industrial. But if they belong to a legitimate union, they can sue or be sued in its name.

There are other requisites that must be present before the Court may take cognizance of a dispute: (1) it must be industrial or agricultural; (2) it must involve questions of wages, hours, shares or compensation, discharges, lay-off or suspensions of workers or other terms and conditions of employment; (3) and it is causing or likely to cause a strike or lockout.

The Court has been very liberal in applying the abovementioned requirement and every doubt is resolved in favor of the existence of jurisdiction.

Once a dispute has been brought to Court, the workers concerned or their counsel need not bother much about legal technicalities which sometimes determine the outcome of a litigation in the regular courts.

Section 7 of C.A. No. 103 provides that "the Court shall have power to conduct hearing in any place for the determination of a question, matter or controversy within its jurisdiction, proceed to hear and determine the dispute in the absence of any party thereto who has been summoned or served with notice to appear, conduct its proceedings or any part thereof in public or in private; adjourn its hearings to any time and place, refer any technical matter or matters of account to an expert and to accept his report as evidence, direct parties to be joined or striken out from the proceedings, correct, amend or waive any error, defect or irregularity,

whether in substance or form; extend any prescribed time; give all such directions as it may deem necessary or expedient in the determination of the dispute before it; and dismiss any matter or part of any matter, or refrain from hearing further or from determining the dispute or part therof, where it is trivial or where further proceedings by the Court are not necessary or desirable." Section 20 of the same Act states: "The Court of Industrial Relations shall adopt its rules of procedure and shall have other powers as generally pertain to a court of justice. Provided, however, that in the hearing, investigation and determination of any question or controversy and in exercising any duties and power under this Act, the Court shall act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms and shall not be bound by any technical rules of legal evidence but may inform its mind in such manner as it may deem just and equitable."

It is important to bear in mind the foregoing provisions of the Organic Act of the Court so as to understand its attitude and procedure which may startle legalistic practitioners who are adept in exploiting to their advantage hair-splitting legal distinctions and legal niceties. The Supreme Court has ruled, however, that the fact that the Court of Industrial Relations is free from the rigidity of certain procedural requirement does not mean that it can entirely ignore or disregard the fundamental and essential requirements of due process. For example, a party litigant cannot be deprived of the right to a hearing.

It should also be remembered that the CIR is a court of record and in rendering decisions it must be guided not only by law but by the evidence adduced by the parties and disclosed by the record. This is a necessary limitation upon the wide discretion granted by law to the Court because without it there would be no way of correcting abuse of discretion in the disposition of any case. If the aggrieved party requests reconsideration of a decision of one judge, the case goes to the Court *en banc* in which case all the judges should be enabled to revise the findings of fact on the basis of recorded evidence. This

is an important safeguard against possible bias or prejudice in laying the factual basis of a ruling or decision, considering that our Supreme Court does not review questions of fact in a decision appealed from the CIR.

Every opportunity is afforded the workers in airing their grievances or in giving testimony before the Court. The law expressly declares it unlawful for any employer to discharge or threaten to discharge or otherwise discriminate against any employee who may testify in any investigation to be conducted by the CIR (Sec. 21, C.A. No. 103). The Court has gone to the extent of allowing workers who leave their work to go to the Court and testify in those cases in which they are involved or interested to collect from their employers the wages or salaries corresponding to the time of their absence.

Once in a while labor attorneys and labor leaders complain about the delay of cases in the Court. If the truth must be told, the alleged delay is attributable more to the parties or their counsel than to the Court. There are times when it seems that there are more labor disputes than the labor attorneys can cope with, so that they frequently find it necessary to ask for postponement of hearings. It is here where our public defenders in the Department of Labor can render effective help to the workers. As for the Court—and this is not being said in self-defense—the judges are doing their best to expedite the disposition of cases.

There are cases where delay is inevitable no matter what amount of diligence the Court and the parties and their counsel may display. More often than not, a case involves numerous demands or issues, and during its pendency it usually gives rise to incidental disputes which must also be resolved. If an issue is not amicably settled, the parties insist on exhaustive inquiry, and if the financial status of the employer is material, the workers' counsel invariably demands a thorough examination of the employer's books of accounts and other records that will likely show or hide profits or losses. Those cases coming from distant provinces are more subject to delay. Usually they are heard in the places where they arise in order to accomodate the workers concerned who cannot come to Manila to testify except at a great expense. The Court always has limited fund for traveling expenses, and, as a measure of economy, it has to resort to an arrangement whereby only one commissioner is delegated to hear all cases existing at the time in a province or a group of provinces near each other.

The second paragraph of section 4 of C.A. No. 103 requires that "the Court shall, before hearing the dispute and in the course of such hearing, endeavor to reconcile the parties and induce them to settle the dispute by amicable agreement." Almost invariably, the preliminary hearing of a dispute is devoted to conciliation, and if the issues are numerous and difficult and the parties seem inclined to face each other with open minds, various conciliatory hearings or conferences usually take place before requiring the parties to present evidence in a formal trial. Even when the proceeding is nearing the final stage, the judge, always watchful for any favorable change in the attitude of the parties, tries his best to effect amicable settlement. As far as the writer is concerned, he has even adopted the practice of asking at the start if the parties would prefer to talk their dispute over among themselves, and if they so desire, they are given sufficient time to negotiate directly.

In short, efforts are always exerted to avoid as much as possible the use of the coercive power of the Court. It has been observed however that in most cases, the parties are willing to leave the outcome of their controversy to the sound judgment of the Court, thereby practically agreeing to constitute it as the agency of arbitration of their choice.

The use of injunction in a labor controversy has always been a highly controversial issue. At times, when at the early stage of a case there are signs of extreme belligerency on the part of the parties which may soon lead to the declaration of a strike or lockout, the Court issues a restraining order requiring the parties to preserve the status quo during the pendency of the case, specifically prohibiting in most cases the workers from staging a strike or walking out of their employment and the employer from suspending, laying off or discharging any worker or changing or altering the terms and conditions of employment existing at the time the dispute arose. If the

workers have already struck, and the strike has some of the earmarks of illegality, and in order to save them from wholesale dismissal which is a consequence of an illegal strike, the Court usually issues a return-to-work order.

The issuance of all such orders is amply justified by section 19 of C.A. No. 103; in fact as to the maintenance of the status quo, the Court order simply repeats the law and serves only as a reminder. In respect of the prevention of strikes, the Court is always guided not only by a desire to prevent aggravation of the controversy but also by the policy of the law as defined and applied by the Supreme Court in various decisions. To begin with, the Supreme Court declared as early as 1940 in the Philippine Match Company case that the recognition by our law of the right to strike "is, at most, a negative one, and, in the last analysis, nugatory". In the comparatively recent case of the Luzon Marine Department Union (1950), the Supreme Court repeated substantially the observation it made in the Philippine Match Company case that the law does not look with favor upon strikes and lockouts because of their disturbing and pernicious effects upon the social order and the public interests, and added that "if the laborers resort to a strike to enforce their demands, instead of resorting first to the legal processes provided by law, they do so at their risk, because the dispute will necessarily reach the Court and, if the latter should find that the strike was unjustified, the strikers would suffer the adverse consequences". It was in that case also where the Supreme Court declared illegal all strikes resorted to for a trivial, unjust or unreasonable purpose or carried out through unlawful means.

Aside from the trend of the Supreme Court's decisions on the subject which the CIR cannot ignore, there seems to be no real need for the workers concerned to resort to, or continue on, strike while their case is pending in Court. Strike or no strike, the Court will consider and decide the controversy according to its merits. When a dispute has reached the Court, a strike by the workers concerned becomes practically purposeless and, therefore, unnecessary. This is undoubtedly the reason why the law empowers the Court to prohibit the workers from striking while their case is pending before it, if in its opinion

public interest so requires and the case will likely not be settled or decided promptly.

I fully agree with those who maintain that the right to strike is basic to liberty and should not be curtailed if its exercise would in some way serve the interest of the workers and would not unduly injure or inconvenience the general public. Undue restriction of such right diminishes the bargaining strength of the workers and encourages employers to ignore labor demands however meritorious and legitimate they may be. If the system of settlement of labor disputes by compulsory arbitration were not in vogue in the Philippines, any move or tendency to restrict the right to strike would be highly objectionable. As long, however, as the system exists, a resort to strike while the arbitration process is going on would be highly inadvisable and almost futile because, as pointed out above, it would be purposeless. Under a system of settlement according to the principles of conciliation and free collective bargaining, any restriction by law of the right to strike would be a backward step and dangerous from the standpoint both of social and economic welfare of the people. But this system does not seem to have been sufficiently developed in this country until now. Stoppages of work resulting from strikes may be more effectively reduced to a minimum by educating the workers and impressing them with the necessity of avoiding any activity which may hamper our productive capacity and retard our economic development besides causing inconvenience and injury to the general public. Broadly speaking, strikes in the Philippines at the present time cannot be very successful chiefly because many of our labor associations are loosely organized and have no fund to draw from to tide the workers over in the event of a protracted strike.

These considerations, among others, render doubtful the wisdom of totally abolishing our system of compulsory arbitration, thereby leaving the voluntary system of conciliation and collective bargaining as the exclusive method of settling labor-management conflicts. Considering the present stage of our labor movement and of our economic development, prudence requires that we wait a little longer before we discard the system which so far has conferred numerous benefits upon the working masses.

But if there must be a change, instead of abolishing entirely the CIR, its composition, procedure and sphere of competence may be modified as follows:

(1) The CIR should not take cognizance of any labor dispute in which contractual procedures for settlement have been established by the parties, unless such procedures are not of a final character, in which case the Court may intervene only upon petition of either party after the contractual procedures have been fully exhausted;

(2) The CIR shall seek settlement of a dispute by agreement or conciliation of the parties before compulsory awards, orders or decisions are rendered;

(3) The CIR judges should be selected from persons who possess special experience and knowledge of labor questions besides the qualifications required for Supreme Court justices; and

(4) The Court or any of its judges should allow the parties to a dispute to appoint one assessor each from their respective groups to assist in the settlement or decision of the dispute, but the responsibility for any decision, order or award shall rest exclusively with the Court or the judge concerned. The assessors will serve without any compensation or allowance whatsoever from the Government.

If it is desired to reduce further the jurisdiction of the CIR, it may be allowed to take cognizance only of "legal disputes" as distinguished from "economic disputes".

What may be considered as "legal disputes" are those which arise from the application or interpretation of any law or custom or of an individual or collective contract of employment, while "economic disputes" are those that arise when the parties cannot agree as to the terms to be included in a collective agreement governing wages, hours and other conditions of employment.

RELATIONS

LEGAL FRAMEWORK FOR LABOR-CAPITAL

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The State, in pursuing its objective of promoting the temporal prosperity and peace of the people, aims to establish that legal framework within which the citizen can achieve his social and economic well-being with the maximum of individual freedom consistent with the common good. Though the index of imports and exports, the volume of capital invested and similar figures give some indication of the economic standing of a nation, the acid test is in the homes, the meals, clothing, educational opportunities and other features of the life of the individual and the family. How decently does the individual live with his family and has this been achieved without robbing him of his human dignity and freedom?

One of the characteristic features of our modern society is the fact that large numbers of the people own no property and are forced to exchange their labor of one kind of another for a wage or salary. Their economic well-being depends almost exclusively on the adequacy or inadequacy of the amount of money received for work to purchase their food, house, clothing and all the rest of the things needed.

Obviously, the terms and conditions under which labor is exchanged for money will be of very great import-