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at war with the promise and the hope associated with an open society. To deprive petitioners of the small landholdings in the face of a presidential decree considered ratified by the new Constitution and precisely in accordance with its avowed objective could indeed be contributory to perpetuating the misery that tenancy had spawned in the past as well as the grave social problems thereby created. There can be no justification for any other decision then whether predicated on a juridical norm or on the traditional role assigned to the judiciary of implementing and not thwarting fundamental policy goals."[9]

WHEREFORE, this petition for prohibition is dismissed.

Barredo, Makasiar, Antonio, Aquino, Concepcion Jr., Santos, Fernandez, Abad Santos, De Castro, and *Melencio-Herrera, JJ.*, concur.

Teehankee and *Guerrero, JJ.*, are on official leave.

SECOND DIVISION

[G.R. No. L-48687. July 2, 1979]

GENCONSU FREE WORKERS UNION, BENJAMIN CUEVAS, and CARLOS ENRIQUEZ, *petitioners, vs.* **HON. AMADO G. INCIONG, DEPUTY MINISTER OF LABOR and ALLENCO STEEL CORPORATION,** *respondents.*

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[9] 55 SCRA 26, 31. Art. XIV, Section 12 of the present Constitution reads thus: "The State shall formulate and implement an agrarian reform program aimed at emancipating the tenant from the bondage of the soil and achieving the goals enunciated in this Constitution."

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SYLLABUS

LABOR AND SOCIAL LEGISLATION; LABOR STANDARDS; BACKWAGES; AWARD THEREOF TO EMPLOYEES IS WARRANTED WHEN THE LATTER ARE ORDERED TO BE REINSTATED.— It cannot be denied, however, that the loss of backwages under the circumstances disclosed may be unfair. There does not appear of record the necessary facts that would justify such a result. To repeat, there is an element of ambiguity in the decision of the National Labor Relations Commission and the order of respondent Deputy Minister of Labor that must be resolved. It cannot be denied either that both the Commission and respondent official did not give full approval to what was done by private respondent Allenco Steel Corporation. There is to that extent, therefore, an element of unfairness if at this stage it would be categorically declared that petitioner Cuevas was not entitled to backwages. If we do not squarely rule on the matter now, it is because of the paucity of the facts of record. It is for that reason that we order a remand to the National Labor Relations Commission to determine with more precision the aforesaid circumstances, more specifically the length of time he did not report for work and the justification, if any, for such refusal. It only remains to be added that as stated in *Almira v. B. F. Goodrich Philippines*, "labor law determinations, to quote from Bultmann, should be not only *secundum rationem* but also *secundum caritatem*."

APPEARANCES OF COUNSEL

Romualdo M. Jubay for petitioners.
Gerardo S. Alansalan for private respondent.
Office of the Solicitor General for the public respondent.

DECISION

FERNANDO, *C.J.*:

It was the failure of respondent Deputy Minister of Labor Amado G. Inciong to grant backwages, although sustaining a decision of the National Labor Relations Commission for reinstatement of petitioners Benjamin Cuevas and Carlos

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Enriquez to their employment in respondent Allenco Steel Corporation, that gave rise to this *certiorari* proceeding.[1] It is to the credit of petitioner Genconsu Free Workers Union that it has not ceased in its efforts to remedy what it considers an injustice done to its members, the aforesaid Cuevas and Enriquez. The claim is made that the order of affirmance was tainted with unfairness, sufficing to justify an invocation of the substantive due process guarantee, respondent firm having been found guilty of an unfair labor practice by the labor arbitrator.[2] It must be admitted that the National Labor Relations Commission acted within its competence in holding that there was no unfair labor practice. According to its decision, the circumstances that gave rise to this controversy started when "complainant Cuevas was advised that he will be transferred to the Scrap Yard Section (T.s.n., pages 12 and 13, December 21, 1973). He was given one week's time to inform respondent whether or not he would accept the new job. Because complainant did not return, respondent was constrained to file an application for clearance to terminate his services on September 13, 1973 on the ground of abandonment. The immediate filing of the opposition to the clearance application and his insistence to return to work clearly show that he did not abandon his job. However, we believe that the complainant must have been given more time to ponder on whether to accept the new job, for the one-week time given to him to report was too short considering that the position being offered is a new job for him."[3] Petitioner Enriquez, on the other hand, according to such decision, "was then on sick leave when respondent sent letters of recall to the laid-off workers. He was not dismissed and, in fact, management even endorsed his claim for sickness benefit to the Social Security System. We do not find sufficient evidence to show that respondent had committed discriminatory acts against the union members, much less the herein complainants. All of the workers

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[1] Petition, pars. 5, 6, 7 and Annexes D and E.

[2] *Ibid.*, pars. 1-4 and Annex C.

[3] Decision of the National Labor Relations Commission dated March 11, 1975, 2.

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were laid off when the respondent's plant stopped its operations in the melting plant and rolling mills and all were recalled upon the resumption of the operations."[4] It granted reinstatement but without backwages. There were some loose ends in such decision which respondent Deputy Minister of Labor could have clarified. There was, instead, a terse three-paragraph order of affirmance. On its face, it gives rise to doubts of possible injustice, which bears careful scrutiny. After setting forth that there was "no sufficient evidence to indicate that [private respondent] has committed discriminatory acts" against Cuevas and Enriquez and that "there was actually no dismissal," it characterized the failure of complainant "to immediately report for work after the resumption of respondent's operation, [as] a result of misunderstanding or misapprehension by the parties of the true facts and circumstances then obtaining."[5]

As to petitioner Enriquez, the facts as found justify the conclusion that no backwages need be paid. He could not have reported earlier as he was on sick leave. As to petitioner Cuevas, however, the appraisal of the situation both by the National Labor Relations Commission and the Deputy Minister of Labor lacks precision, giving rise to an ambiguity that lends plausibility to a proceeding of this character. The loss of backwages could be too harsh a penalty considering that as was admitted in the affirmed decision, he should "have been given more time to ponder on whether to accept the new job, for the one-week time given to him to report was too short .* * *."[6] As there are matters that still need to be clarified, equity calls for a remand of his claim to the National Labor Relations Commission for an ascertainment in greater detail of the circumstances that resulted in his failure to report to work.

Certiorari to that extent lies. So we rule.

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[4] *Ibid.*

[5] Order of respondent Deputy Minister of Labor dated June 9, 1977.

[6] Decision of the National Labor Relations Commission dated March 11, 1975, 2.

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1. There is no occasion to pass upon the allegation in the petition that certain discriminatory acts, anti-union in character, could be attributed to private respondent. Respondent Deputy Minister of Labor and the National Labor Relations Commission absolved it from such a charge. That is a finding of fact to which deference must be paid. That norm has invariably been followed by this Court.[7]

2. The failing of both the National Labor Relations Commission and respondent Deputy Minister of Labor with reference to petitioner Cuevas certainly cannot be characterized as a clear denial of substantive due process in the sense of its having "outrun the bounds of reason and result[ed] in sheer oppression."[8] It cannot be denied, however, that the loss of backwages under the circumstances disclosed may be unfair. There does not appear of record the necessary facts that would justify such a result. To repeat, there is an element of ambiguity in the decision of the National Labor Relations Commission and the order of respondent Deputy Minister of Labor that must be resolved. It cannot be denied either that both the Commission and respondent official did not give full approval to what was done by private respondent Allenco Steel Corporation. There is to that extent, therefore, an element of unfairness if at this stage it would be categorically declared that petitioner Cuevas was not entitled to backwages. If we do not squarely rule on the matter now, it is because of the paucity of the facts of record. It is for that reason that we order a remand to the National Labor Relations Commission to determine

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[7] Cf. *Antipolo Highway Lines v. Inciong*, L-38532, June 27, 1975, 64 SCRA 441; *Jacqueline Industries v. National Labor Relations Commission*, L-37034, Aug. 29, 1975, 66 SCRA 397; *Federacion Obrera v. Noriel*, L-41937, July 6, 1976, 72 SCRA 24; *Kapisanan ng mga Manggagawa v. Noriel*, L-45475, June 20, 1977, 77 SCRA 414; *Monark International, Inc. v. Noriel*, L-47570-71, May 11, 1978, 83 SCRA 114; *National Waterworks and Sewerage Authority v. Court of Industrial Relations*, L-33496, June 19, 1979.

[8] Cf. *Ermita-Malate Hotel and Motel Operators Association v. City Mayor*, L-24693, July 31, 1967, 20 SCRA 849, 860.

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with more precision the aforesaid circumstances, more specifically the length of time he did not report for work and the justification, if any, for such refusal. It only remains to be added that as stated in *Almira v. B. F. Goodrich Philippines*,[9] "labor law determinations, to quote from Bultmann, should be not only *secundum rationem* but also *secundum caritatem*."[10]

WHEREFORE, the assailed order of respondent Deputy Minister of Labor is affirmed as to the denial of backwages to petitioner Enriquez but modified if the sense that the case is remanded to the National Labor Relations Commission for the determination with greater detail of circumstances that resulted in the failure of petitioner Cuevas to report for work and for it thereafter to rule on whether or not backwages should be granted petitioner Cuevas.

Barredo, Antonio, Aquino, Concepcion Jr., and *Abad Santos, JJ.*, concur.

Santos, J., is on official leave.

EN BANC

[G.R. No. L-34843. July 5, 1979]

THE COMMISSIONER OF PUBLIC HIGHWAYS and THE CEBU 3rd ENGINEERING DISTRICT (NOW DEFUNCT), *petitioners-appellants, vs.* **HON. GUILLERMO P. VILLASOR, Judge of the Court of First Instance of Cebu, Branch I, PROVINCE OF**

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[9] L-34974, July 25, 1974, 58 SCRA 120.

[10] *Ibid.*, 131.