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The aforequoted provisions of law clearly show that petitioners, Commissioner of Internal Revenue and the Fair Trade Board, are without jurisdiction to investigate and to prosecute alleged misbranding, mislabeling and/or misleading advertisements of filled milk. The jurisdiction on the matters cited is vested upon the Board of Food and Drug Inspection and the Food and Drug Administrator, with the Secretary of Health and the Secretary of Justice, also intervening in case criminal prosecution has to be instituted. To hold that the petitioners have also jurisdiction as would be the result were their instant petition granted, would only cause overlapping of powers and functions likely to produce confusion and conflict of official action which is neither practical nor desirable.

WHEREFORE, the decision appealed from is hereby affirmed *en toto*. No costs.

SO ORDERED.

Teehankee, (Chairman), Fernandez, Guerrero, and *Melencio-Herrera, JJ.*, concur.

Makasiar, J., took no part.

FIRST DIVISION

[G.R. No. L-33987. May 31, 1979]

LIBERTY COTTON MILLS WORKERS UNION, RAFAEL NEPOMUCENO, MARCIANO CASTILLO, NELLY ACEVEDO, RIZALINO CASTILLO, and RAFAEL COMBALICER, *petitioners, vs.* **LIBERTY COTTON MILLS, INC., PHILIPPINE ASSOCIATION OF FREE LABOR UNION (PAFLU), and THE COURT OF INDUSTRIAL RELATIONS,** *respondents.*

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SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; TERMINATION OF EMPLOYMENT; DISMISSAL; EMPLOYEES ENTITLED TO BE HEARD. — While a company, under the maintenance of membership provision of the collective bargaining agreement, is bound to dismiss an employee expelled by the union for disloyalty upon its written request, this undertaking should *not be done hastily and summarily. The company's dismissal* of its workers without giving them the benefit of a hearing, and without inquiring from the workers and from the union about the cause of the expulsion of the workers, constitute bad faith.

2. ID.; ID.; LIMITATIONS OF POWER TO DISMISS EMPLOYEE. — The power to dismiss is a normal prerogative of the employer. However, this is not without limitations. The employer is bound to exercise caution in terminating the services of his employees especially so when it issued upon the request of a labor union pursuant to that collective bargaining agreement. Dismissals must not be arbitrary and capricious. Due process must be observed in dismissing an employee because it affects not only his position but also his means of livelihood. Employers should respect and protect the rights of their employees, which include the right to labor.

3. ID.; ID.; ID.; CONSPIRACY BETWEEN COMPANY AND UNION IN DISMISSING EMPLOYEES, PRESENT. — The "scandalous haste" with which the company dismissed the workers, acceding with unusual alacrity to the request of the union and without giving them the benefit of a hearing prior to their dismissal supports the conclusion that there was conspiracy between the company and the union in the dismissal of the workers.

4. ID.; LABOR STANDARDS; BACKWAGES; COMPUTATION. — *The amount of backwages fixed by the court consisting of three* (3) years backwages without deduction or qualification is just and reasonable. The rationale for this new formula of fixing the amount of backwages to a just and reasonable level without deduction or qualification is to relieve the employees from proving or disproving their earnings during their lay-off and the employees from submitting counterproofs, in order to obviate the twin evils of idleness on the part of the employee and

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attrition and protracted delay in satisfying such award on the part of employers.

RESOLUTION

MAKASIAR, *J.*:

A motion was filed on September 24, 1975 by herein petitioners Liberty Cotton Mills Workers Union, Rafael Nepomuceno, Mariano Castillo, Nelly Acevedo, Rizalino Castillo, and Rafael Combalicer, for the reconsideration and/or modification of the decision dated September 4, 1975.

The Court, in its resolution dated September 29, 1975, required the respondents to comment on said motion. Respondent Liberty Cotton Mills, Inc. filed its comment on October 27, 1975. However, respondent Philippine Association of Free Labor Union (PAFLU) filed on October 30, 1975 a manifestation of compliance submitting petitioner's motion for reconsideration without comment. Respondent National Labor Relations Commission, successor of the defunct Court of Industrial Relations, filed its comment on November 5, 1975.

In their motion, petitioners pray that:

1. the respondent company be made jointly and severally, or at least jointly, liable for the payment of backwages of the workers involved;

2. the workers involved be reinstated immediately, without loss of seniority and/or fringe benefits and, upon their reinstatement, their wages should be at the same rates as those of their contemporaries in 1964; and

3. the backwages of the workers involved be made for more than three (3) years without any deduction or qualification or at least 50% backwages or 5 1/2 years, also without deduction or qualification, if not from the date of dismissal up to the date of actual reinstatement (pp. 4-5, Motion for Reconsideration, pp. 230-231, rec.).

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The Court's decision, among others, limited the liability of the respondent company to the immediate reinstatement of the workers (petitioners herein) and directed respondent PAFLU to pay the petitioner workers the equivalent of three (3) years backwages without deduction or qualification.

It is OUR considered view that respondent company is equally liable for the payment of backwages for having acted in bad faith in effecting the dismissal of the individual petitioners. Bad faith on the part of the respondent company may be gleaned from the fact that the petitioner workers were dismissed hastily and summarily. At best, it was guilty of a tortious act, for which it must assume solidary liability, since it apparently chose to summarily dismiss the workers at the union's instance secure in the union's contractual undertaking that the union would hold it "free from any liability" arising from such dismissal.

It appears that on May 17, 1964, thirty-two (32) out of the thirty-six (36) members of the local union, Liberty Cotton Mills Union, disaffiliated themselves from respondent PAFLU in accordance with Article X, on Union Affiliation, of the local union's Constitution and By-Laws, which provides that:

"Section 1. The Liberty Cotton Mills Workers Union-Paflu x x x shall remain an affiliate as long as ten or more of its members evidence their desire to continue the said local union's affiliation x x x."

Respondent PAFLU received the resolution of disaffiliation on May 25, 1964 and immediately informed the respondent company on May 27, 1964 that the disaffiliation was null and void and that it is taking over the administration of the local union in dealing with the management. Two days later, on May 29, 1964, PAFLU advised the company that the petitioner workers, who were among those who signed the disaffiliation resolution, were expelled from their union membership in the mother federation because they were found guilty of acts unbecoming of officers and members of the union and disloyalty to the mother federation for instigating union disaffiliation, and at the same time requested for their dismissal. On May 30, 1964, the company terminated the employment of the petitioner workers pursuant

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to the Maintenance of Membership provision of the Collective Bargaining Agreement, the pertinent portion of which reads, as follows:

"x x x for disloyalty to the union shall be dismissed from employment by the Company upon request in writing by the Union, which shall hold the COMPANY free from any liability arising from or caused by such dismissal."

While respondent company, under the Maintenance of Membership provision of the Collective Bargaining Agreement, is bound to dismiss any employee expelled by PAFLU for disloyalty, upon its written request, this undertaking should not be done hastily and summarily. The company acted in bad faith in dismissing petitioner workers without giving them the benefit of a hearing. It did not even bother to inquire from the workers concerned and from PAFLU itself about the cause of the expulsion of the petitioner workers. Instead, the company immediately dismissed the workers on May 30, 1964 after its receipt of the request of PAFLU on May 29, 1964 — in a span of only one day — stating that it had no alternative but to comply with its obligation under the Security Agreement in the Collective Bargaining Agreement, thereby disregarding the right of the workers to due process, self-organization and security of tenure.

Moreover, even after the workers were dismissed on May 30, 1964, and had sought for a reconsideration of their dismissal the next day, respondent company stood pat on its decision and immediately denied the request for reconsideration on June 2, 1964 without any valid reason. This actuation further emphasizes respondent company's bad faith in the dismissal of the petitioner workers.

The power to dismiss is a normal prerogative of the employer. However, this is not without limitations. The employer is bound to exercise caution in terminating the services of his employees especially so when it is made upon the request of a labor union pursuant to the Collective Bargaining Agreement, as in the instant case. Dismissals must not be arbitrary and capricious. Due process must be observed in dismissing an employee because it affects not only his position but also his means of livelihood.

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Employers should therefore respect and protect the rights of their employees, which include the right to labor. For as WE have already stated:

"The right to labor is a constitutional as well as a statutory right. Every man has a natural right to the fruits of his own industry. A man who has been employed to undertake certain labor and has put into it his time and effort is entitled to be protected. *The right of a person to his labor is deemed to be properly within the meaning of constitutional guarantees. That is his means of livelihood. He cannot be deprived of his labor or work without due process of law*" (*Batangas Laguna Tayabas Bus Company vs. Court of Appeals*, 71 SCRA 470, 480 [1976]; *Phil. Education Co., Inc. vs. CIR, et al.*, L-7156, May 31, 1955; *Philippine Movie Pictures Workers' Association vs. Premier Productions, Inc.*, 92 Phil. 843, 848 [1953]; 11 Am Jur., 333, pp. 1151-1153; 11 Am Jur., Section 344, pp. 1168-1171; italics supplied).

The "scandalous haste" with which the company dismissed the workers, acceding with unusual alacrity to the request of PAFLU, and without giving them the benefit of a hearing prior to their dismissal, also supports the conclusion that there was conspiracy or connivance between the respondent company and respondent PAFLU in the dismissal of the petitioner workers.

Likewise, the records show that the disaffiliation of the local union members from the PAFLU was caused by the alleged negligence of PAFLU and its lack of concern over the problems of the local union and its members, particularly its neglect in not providing the local union with a good lawyer who would attend to their ULP case against the company. This apparent laxity or negligence of PAFLU invites suspicion.

The records also show that the local union members were dissatisfied with the way PAFLU negotiated the Collective Bargaining Agreement with the company because it did not fight for their demands and instead accepted the proposals of the company.

And furthermore, PAFLU expelled only six (6) union members, because PAFLU erroneously contends that their disaffiliation and their refusal to retract amounted to disloyalty. It was not disloyalty; it was their dissatisfaction with PAFLU that compelled

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them to disaffiliate. The constitutional guarantee of security of tenure of the worker and his freedom of association — to join or not to join a union — are paramount and should prevail over a contractual condition for continued union membership and over whimsical or arbitrary termination of his employment.

Respondent PAFLU also overlooked the fact that only sixteen (16) out of the original thirty-two (32) signatories retracted their disaffiliation. PAFLU should have also expelled the remaining sixteen members who did not retract, instead of only the six members, if indeed their unretracted disaffiliation were an act of disloyalty instead of dissatisfaction with the PAFLU's failure to promote and defend their interests.

It is also worth considering here the fact that of the six members expelled by PAFLU and subsequently dismissed by the company, four (4) were officers of the local union and two were ordinary members.

The company also failed to notice this fact and proceeded immediately to grant the request of PAFLU by dismissing the petitioner workers without giving them the opportunity to be heard.

These facts and circumstances on record further underscore the existence of conspiracy or connivance between the company and PAFLU in the dismissal of the petitioner workers. Respondent company is therefore a party to the illegal dismissal of the petitioner workers. Under such a situation, the respondent company should be jointly and severally liable with the respondent PAFLU for the payment of backwages to the petitioner workers.

The other reliefs prayed for by the petitioner workers do not merit any consideration for the reason that the amount of backwages fixed by the Court in the main decision, consisting of three (3) years backwages without deduction or qualification, following the formula of computing backwages enunciated in the case of *Mercury Drug Co., Inc., et al. vs. CIR, et al.* (56 SCRA 694 [1974]), is just and reasonable under the facts and circumstances obtaining in the case. This new formula of fixing the amount of backwages to a just and reasonable level without deduction or qualification has been reiterated in a number of cases, the more

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recent of which is the case of *L. R. Aguinaldo Co., Inc., et al. vs. CIR, et al.* (82 SCRA 309 [1978]) where the Court ordered the reinstatement of the illegally dismissed employees and awarded three (3) years backwages without deduction or qualification considering the lapse of time from the date of their dismissal (see also *Danao Development Corporation vs. NLRC, et al.*, 81 SCRA 489 [1978]; *Monteverde, et al. vs. CIR, et al.*, (79 SCRA 259 [1977]; *Insular Life Insurance Co., Ltd. Employees Association-NATU vs. Insular Life Assurance Co., Ltd.*, (76 SCRA 50 [1977]; *People's Bank and Trust Company, et al. vs. People's Bank and Trust Company Employees Union, et al.*, (69 SCRA 10 [1976]; and cases cited therein).

And the rationale for the formula was explained by this Court in the case of *Feati University Faculty Club vs. Feati University* (58 SCRA 395 [1974]) as follows:

"x x x this formula of awarding reasonable net backwages without deduction or qualification relieves the employees from proving or disproving their earnings during their lay-off and the employers from *submitting counterproofs: and obviates the twin evils of idleness* on the part of the employee who would 'with folded arms, remain inactive in the expectation that a windfall would come to him' and attrition and protracted delay in satisfying such award on the part of unscrupulous employers who have seized upon the further proceedings to determine the actual earnings of the wrongfully dismissed or laid-off employees to hold unduly extended hearings for each and every employee awarded backwages and thereby render practically nugatory such award and compel the employees to agree to unconscionable settlements of their backwages award in order to satisfy their dire need."

WHEREFORE, the decision dated September 4, 1975 is hereby amended to read as follows:

"WHEREFORE, the decision appealed from is reversed and set aside and the RESPONDENT company is hereby ordered to immediately reinstate complainant workers, AT CURRENT RATES PAID BY IT TO WORKERS OCCUPYING THE SAME OR SIMILAR POSITIONS, WITHOUT LOSS OF SENIORITY AND OTHER PRIVILEGES AS IF SAID COMPLAINANT WORKERS HAD NOT BEEN WRONGFULLY DISMISSED, within thirty (30) days from notice of this decision and failure to so reinstate the workers without valid and just cause shall

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make respondent company liable to the workers for the payment of their wages AT CURRENT RATES from and after the expiration of such thirty-day period. The mother federation PAFLU AND RESPONDENT LIBERTY COTTON MILLS INC. ARE hereby sentence to pay JOINTLY AND SEVERALLY complainants-workers the equivalent of three (3) years backwages (AT THE RATES ACTUALLY RECEIVED BY THEM BEFORE THEIR DISMISSAL) without deduction or qualification, AND RESPONDENT PAFLU IS IN TURN SENTENCED TO REIMBURSE AND PAY RESPONDENT LIBERTY COTTON MILLS, INC. ANY AND ALL SUCH AMOUNTS THAT SAID RESPONDENT *COMPANY MAY PAY HEREUNDER BY WAY OF BACKWAGES TO* THE COMPLAINANTS-WORKERS.

"In view of the length of time that this dispute has been pending, this decision shall be immediately executory upon promulgation and notice to the parties. Without pronouncement as to costs."

Teehankee (Chairman), Fernandez, Guerrero, and *De Castro, JJ.,* concur.

Melencio Herrera J., reserves her vote.

EN BANC

[G.R. No. L-34356. May 31, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JULIO VALERA and ERNESTO IMPERIAL,** *defendants,* **JULIO VALERA,** *defendant-appellant.*

[G.R. No. L-37016. May 31, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **JULIO VALERA and ERNESTO IMPERIAL,** *defendants,* **ERNESTO IMPERIAL,** *defendant-appellant.*