Supreme Court E-Library

THIRD DIVISION

[G.R. No. 85279. July 28, 1989]

SOCIAL SECURITY SYSTEM EMPLOYEES ASSOCIATION (SSSEA), DIONISIO T. BAYLON, RAMON MODESTO, JUANITO MADURA, REUBEN ZAMORA, VIRGILIO DE ALDAY, SERGIO ARANETA, PLACIDO AGUSTIN, VIRGILIO MAGPAYO, *petitioners, vs.* **THE COURT OF APPEALS, SOCIAL SECURITY SYSTEM (SSS), HON. CEZAR C. PERALEJO, RTC, BRANCH 98, QUEZON CITY,** *respondents.*

SYLLABUS

1. **ADMINISTRATIVE LAW; CIVIL SERVICE; PROHIBITION ON GOVERNMENT EMPLOYEES FROM STRIKING.** — While the Constitution and the Labor Code are silent as to whether or not government employees may strike, they are prohibited from striking, by express provision of Memorandum Circular No. 6 series of 1987 of the Civil Service Commission and as implied in E.O. No. 180.

2. **ID.; ID.; ID.; REMEDIES IN LIEU OF RIGHT TO STRIKE.** — Government employees may, therefore, through their unions or associations, either petition the Congress for the betterment of the terms and conditions of employment which are within the ambit of legislation or negotiate with the appropriate government agencies for the improvement of those which are not fixed by law.

3. **ID.; ID.; SOCIAL SECURITY SYSTEM EMPLOYEES ARE PART THEREOF AND COVERED BY MEMORANDUM PROHIBITING STRIKES.** — SSS employees are part of the civil service and are covered by the Civil Service Commission's memorandum prohibiting strikes.

4. **ID.; ID.; EXECUTIVE ORDER NO. 180; ALLOWS GOVERNMENT EMPLOYEES TO NEGOTIATE WHERE TERMS AND CONDITIONS OF EMPLOYMENT ARE NOT AMONG THOSE FIXED BY LAW.** — E.O. No. 180 which provides guidelines

Supreme Court E-Library

for the exercise of the right to organize of government employees, allows negotiation where the terms and conditions of employment involved are not among those fixed by law.

5. ID.; ID.; TERMS AND CONDITIONS OF EMPLOYMENT IN GOVERNMENT ARE GOVERNED BY LAW; EMPLOYEES SHALL NOT STRIKE TO SECURE CHANGES. — Section 4, Rule III of the Rules and Regulations to Govern the Exercise of the Right of Government Employees to Self-Organization, which took effect after the instant dispute arose, "[t]he terms and conditions of employment in the government, including any political subdivision or instrumentality thereof and government-owned and controlled corporations with original charters are governed by law and employees therein shall not strike for the purpose of securing changes thereof."

6. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; STRIKES; NATIONAL LABOR RELATIONS COMMISSION HAS NO JURISDICTION TO ISSUE AN INJUNCTION TO RESTRAIN AN ILLEGAL STRIKE STAGED BY SOCIAL SECURITY SYSTEM EMPLOYEES; REASONS. — An injunction may be issued to restrain it. It is futile for the petitioners to assert that the subject labor dispute falls within the exclusive jurisdiction of the NLRC and, hence, the Regional Trial Court had no jurisdiction to issue a writ of injunction enjoining the continuance of the strike. The Labor Code itself provides that terms and conditions of employment of government employees shall be governed by the Civil Service Law, rules and regulations [Art. 276]. More importantly, E.O. No. 180 vests the Public Sector Labor-Management Council with jurisdiction over unresolved labor disputes involving government employees [Sec. 16]. Clearly, the NLRC has no jurisdiction over the dispute.

7. ID.; ID.; ID.; ID.; REGIONAL TRIAL COURT HAS JURISDICTION TO ISSUE AN INJUNCTION TO ENJOIN SAID STRIKE; REASON. — The Public Sector Labor-Management Council has not been granted by law authority to issue writs of injunction in labor disputes within its jurisdiction. Thus, since it is the Council, and not the NLRC, that has jurisdiction over the instant labor dispute, resort to the general courts of law for the issuance of a writ of injunction to enjoin the strike is appropriate.

Supreme Court E-Library

8. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; NOT PROPER WHERE COURT CANNOT BE ACCUSED OF IMPRUDENCE OR OVERZEALOUSNESS AS IT PROCEEDED WITH CAUTION. — The lower Court cannot be accused of imprudence or zealousness, for after issuing a writ of injunction enjoining the continuance of the strike to prevent any further disruption of public service, the respondent judge, in the same order, admonished the parties to refer the unresolved controversies emanating from their employer-employee relationship to the Public Sector Labor-Management Council for appropriate action.

9. ID.; CIVIL PROCEDURE; EXECUTION OF JUDGMENT; WHEN PROPER. — Petitioners' remedy is not to petition this Court to issue an injunction, but to cause the execution of the order of the Merit Systems Promotion Board if it has already become final.

APPEARANCES OF COUNSEL

Vicente T. Ocampo & Associates for petitioners.

D E C I S I O N

CORTES, *J.*:

Primarily, the issue raised in this petition is whether or not the Regional Trial Court can enjoin the Social Security System Employees Association (SSSEA) from striking and order the striking employees to return to work. Collaterally, it is whether or not employees of the Social Security System (SSS) have the right to strike.

The antecedents are as follows:

On June 11, 1987, the SSS filed with the Regional Trial Court of Quezon City a complaint for damages with a prayer for a writ of preliminary injunction against petitioners, alleging that on June 9, 1987, the officers and members of SSSEA staged an illegal strike and barricaded the entrances to the SSS Building, preventing non-striking employees from reporting for work and SSS members from transacting business with the SSS; that the

Supreme Court E-Library

strike was reported to the Public Sector Labor-Management Council, which ordered the strikers to return to work; that the strikers refused to return to work; and that the SSS suffered damages as a result of the strike. The complaint prayed that a writ of preliminary injunction be issued to enjoin the strike and that the strikers be ordered to return to work; that the defendants (petitioners herein) be ordered to pay damages; and that the strike be declared illegal.

It appears that the SSSEA went on strike after the SSS failed to act on the union's demands, which included: implementation of the provisions of the old SSS-SSSEA collective bargaining agreement (CBA) on check-off of union dues; payment of accrued overtime pay, night differential pay and holiday pay; conversion of temporary or contractual employees with six (6) months or more of service into regular and permanent employees and their entitlement to the same salaries, allowances and benefits given to other regular employees of the SSS; and payment of the children's allowance of ₱30.00, and after the SSS deducted certain amounts from the salaries of the employees and allegedly committed acts of discrimination and unfair labor practices [*Rollo*, pp. 21-24].

The court *a quo*, on June 11, 1987, issued a temporary restraining order pending resolution of the application for a writ of preliminary injunction [*Rollo*, p. 71.] In the meantime, petitioners filed a motion to dismiss alleging the trial court's lack of jurisdiction over the subject matter [*Rollo*, pp. 72-82.] To this motion, the SSS filed an opposition, reiterating its prayer for the issuance of a writ of injunction [*Rollo*, pp. 209-222]. On July 22, 1987, in a four-page order, the court *a quo* denied the motion to dismiss and converted the restraining order into an injunction upon posting of a bond, after finding that the strike was illegal [*Rollo*, pp. 83-86]. As petitioners' motion for the reconsideration of the aforesaid order was also denied on August 14, 1988 [*Rollo*, p. 94], petitioners filed a petition for *certiorari* and prohibition with preliminary injunction before this Court. Their petition was docketed as G.R. No. 79577. In a resolution dated October 21, 1987, the Court, through the Third Division, resolved to refer the case to the Court of Appeals. Petitioners

Supreme Court E-Library

filed a motion for reconsideration thereof, but during its pendency the Court of Appeals on March 9, 1988 promulgated its decision on the referred case [*Rollo*, pp. 130-137]. Petitioners moved to recall the Court of Appeals' decision. In the meantime, the Court on June 29, 1988 denied the motion for reconsideration in G.R. No. 79577 for being moot and academic. Petitioners' motion to recall the decision of the Court of Appeals was also denied in view of this Court's denial of the motion for reconsideration [Rollo, pp. 141-143]. Hence, the instant petition to review the decision of the Court of Appeals [*Rollo*, pp. 12-37].

Upon motion of the SSS on February 6, 1989, the Court issued a temporary restraining order enjoining the petitioners from staging another strike or from pursuing the notice of strike they filed with the Department of Labor and Employment on January 25, 1989 and to maintain the *status quo* [*Rollo*, pp. 151-152].

The Court, taking the comment as answer, and noting the reply and supplemental reply filed by petitioners, considered the issues joined and the case submitted for decision.

The position of the petitioners is that the Regional Trial Court had no jurisdiction to hear the case initiated by the SSS and to issue the restraining order and the writ of preliminary injunction, as jurisdiction lay with the Department of Labor and Employment or the National Labor Relations Commission, since the case involves a labor dispute.

On the other hand, the SSS advances the contrary view, on the ground that the employees of the SSS are covered by civil service laws and rules and regulations, not the Labor Code, therefore they do not have the right to strike. Since neither the DOLE nor the NLRC has jurisdiction over the dispute, the Regional Trial Court may enjoin the employees from striking.

In dismissing the petition for *certiorari* and prohibition with preliminary injunction filed by petitioners, the Court of Appeals held that since the employees of the SSS, are government employees, they are not allowed to strike, and may be enjoined by the Regional Trial Court, which had jurisdiction over the SSS' complaint for damages, from continuing with their strike.

Supreme Court E-Library

Thus, the sequential questions to be resolved by the Court in deciding whether or not the Court of Appeals erred is finding that the Regional Trial Court did not act without or in excess of jurisdiction when it took cognizance of the case and enjoined the strike are as follows:

1. Do the employees of the SSS have the right to strike?

2. Does the Regional Trial Court have jurisdiction to hear the case initiated by the SSS and to enjoin the strikers from continuing with the strike and to order them to return to work?

These shall be discussed and resolved *seriatim*.

I

The 1987 Constitution, in the Article on Social Justice and Human Rights, provides that the State "shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, *including the right to strike in accordance with law*" [Art. XIII, Sec. 3].

By itself, this provision would seem to recognize the right of all workers and employees, including those in the public sector, to strike. But the Constitution itself fails to expressly confirm this impression, for in the Sub-Article on the Civil Service Commission, it provides, after defining the scope of the civil service as "all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters," that "[t]he right to self-organization shall not be denied to government employees" [Art. IX(B), Sec. 2(1) and (5)]. Parenthetically, the Bill of Rights also provides that "[t]he right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not abridged" [Art. III, Sec. 8]. Thus, while there is no question that the Constitution recognizes the right of government employees to organize, it is silent as to whether such recognition also includes the right to strike.

Resort to the intent of the framers of the organic law becomes helpful in understanding the meaning of these provisions. A

Supreme Court E-Library

reading of the proceedings of the Constitutional Commission that drafted the 1987 Constitution would show that in recognizing the right of government employees to organize, the commissioners intended to limit the right to the formation of unions or associations *only*, without including the right to strike.

Thus, Commissioner Eulogio R. Lerum, one of the sponsors of the provision that "[t]he right to self-organization shall not be denied to government employees" [Art. IX(B), Sec. 2(5)], in answer to the apprehensions expressed by Commissioner Ambrosio B. Padilla, Vice-President of the Commission, explained:

> MR. LERUM. I think what I will try to say will not take that long. When we proposed this amendment providing for self-organization of government employees, it does not mean that because they have the right to organize, they also have the right to strike. That is a different matter. We are only talking about organizing, uniting as a union. With regard to the right to strike, everyone will remember that in the Bill of Rights, there is a provision that the right to form associations or societies whose purpose is not contrary to law shall not be abridged. Now then, if the purpose of the state is to prohibit the strikes coming from employees exercising government functions, that could be done because the moment that is prohibited, then the union which will go on strike will be an illegal union. And that provision is carried in Republic Act 875. In Republic Act 875, workers, including those from the government-owned and controlled, are allowed to organize but they are prohibited from striking. So, the fear of our honorable Vice-President is unfounded. It does not mean that because we approve this resolution, it carries with it the right to strike. That is a different matter. As a matter of fact, that subject is now being discussed in the Committee on Social Justice because we are trying to find a solution to this problem. We know that this problem exists; that the moment we allow anybody in the government to strike, then what will happen if the members of the Armed Forces will go on strike? What will happen to those people trying to protect us? So that is a matter of discussion in the Committee on Social Justice. But, I repeat, the right to form an organization does not carry with it the right to strike. [Record of the Constitutional Commission, Vol. I, p. 569]

Supreme Court E-Library

It will be recalled that the Industrial Peace Act (R.A. No. 875), which was repealed by the Labor Code (P.D. 442) in 1974, expressly banned strikes by employees in the Government, including instrumentalities exercising governmental functions, but excluding entities entrusted with proprietary functions:

> Sec. 11. *Prohibition Against Strikes in the Government.* — The terms and conditions of employment in the Government, including any political subdivision or instrumentality thereof, are governed by law and it is declared to be the policy of this Act that employees therein shall not strike for the purpose of securing changes or modification in their terms and conditions of employment. Such employees may belong to any labor organization which does not impose the obligation to strike or to join in strike: *Provided, however*, That this section shall apply only to employees employed in governmental functions and not those employed in proprietary functions of the Government including but not limited to governmental corporations.

No similar provision is found in the Labor Code, although at one time it recognized the right of employees of government corporations established under the Corporation Code to organize and bargain collectively and those in the civil service to "form organizations for purposes not contrary to law" [Art. 244, before its amendment by B.P. Blg. 70 in 1980], in the same breath it provided that "[t]he terms and conditions of employment of all government employees, including employees of government owned and controlled corporations, shall be governed by the Civil Service Law, rules and regulations" [now Art. 276]. Understandably, the Labor Code is silent as to whether or not government employees may strike, for such are excluded from its coverage [*Ibid.*]. But then the Civil Service Decree [P.D. No. 807], is equally silent on the matter.

On June 1, 1987, to implement the constitutional guarantee of the right of government employees to organize, the President issued E.O. No. 180 which provides guidelines for the exercise of the right to organize of government employees. In Section 14 thereof, it is provided that "[t]he Civil Service law and rules governing concerted activities and strikes in the government service shall be observed, subject to any legislation that may

Supreme Court E-Library

be enacted by Congress." The President was apparently referring to Memorandum Circular No. 6, s. 1987 of the Civil Service Commission under date April 21, 1987 which, "prior to the enactment by Congress of applicable laws concerning strike by government employees . . . *enjoins under pain of administrative sanctions, all government officers and employees from staging strikes, demonstrations, mass leaves walk-outs and other forms of mass action which will result in temporary stoppage or disruption of public service.*" The air was thus cleared of the confusion. At present, in the absence of any legislation allowing government employees to strike, recognizing their right to do so, or regulating the exercise of the right, they are prohibited from striking, by express provision of Memorandum Circular No. 6 and as implied in E.O. No. 180. [At this juncture, it must be stated that the validity of Memorandum Circular No. 6 is not at issue].

But are employees of the SSS covered by the prohibition against strikes?

The Court is of the considered view that they are. Considering that under the 1987 Constitution "[t]he civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters" [Art. IX(B), Sec. 2(1); *see* also Sec. 1 of E.O. No. 180 where the employees in the civil service are denominated as "government employees"] and that the SSS is one such government-controlled corporation with an original charter, having been created under R.A. No. 1161, its employees are part of the civil service [*NASECO v. NLRC*, G.R. Nos. 69870 & 70295, November 29, 1988] and are covered by the Civil Service Commission's memorandum prohibiting strikes. This being the case, the strike staged by the employees of the SSS was illegal.

The statement of the Court in *Alliance of Government Workers v. Minister of Labor and Employment* [G.R. No. 60403, August 3, 1983, 124 SCRA 1] is relevant as it furnishes the rationale for distinguishing between workers in the private sector and government employees with regard to the right to strike:

Supreme Court E-Library

The general rule in the past and up to the present is that "the terms and conditions of employment in the Government, including any political subdivision or instrumentality thereof are governed by law" (Section 11, the Industrial Peace Act, R.A. No. 875, as amended and Article 277, the Labor Code, P.D. No. 442, as amended). *Since the terms and conditions of government employment are fixed by law, government workers cannot use the same weapons employed by workers in the private sector to secure concessions from their employers.* The principle behind labor unionism in private industry is that industrial peace cannot be secured through compulsion by law. Relations between private employers and their employees rest on an essentially voluntary basis. Subject to the minimum requirements of wage laws and other labor and welfare legislation, the terms and conditions of employment in the unionized private sector are settled through the process of collective bargaining. In government employment, however, it is the legislature and, where properly given delegated power, the administrative heads of government which fix the terms and conditions of employment. And this is effected through statutes or administrative circulars, rules, and regulations, not through collective bargaining agreements. [At p. 13; Italics supplied].

Apropos is the observation of the Acting Commissioner of Civil Service, in his position paper submitted to the 1971 Constitutional Convention, and quoted with approval by the Court in *Alliance*, to wit:

It is the stand, therefore, of this Commission that by reason of the nature of the public employer and the peculiar character of the public service, it must necessarily regard the right to strike given to unions in private industry as not applying to public employees and civil service employees. It has been stated that the Government, in contrast to the private employer, protects the interest of all people in the public service, and that accordingly, such conflicting interests as are present in private labor relations could not exist in the relations between government and those whom they employ. [At pp. 16-17; also quoted in *National Housing Corporation v. Juco*, G.R. No. 64313 January 17, 1985, 134 SCRA 172, 178-179].

E.O. No. 180, which provides guidelines for the exercise of the right to organize of government employees, while clinging to the same philosophy, has, however, relaxed the rule to allow

Supreme Court E-Library

negotiation where the terms and conditions of employment involved are not among those fixed by law. Thus:

> SECTION 13. Terms and conditions of employment or improvements thereof, except those that are fixed by law, may be the subject of negotiations between duly recognized employees' organizations and appropriate government authorities.

The same executive order has also provided for the general mechanism for the settlement of labor disputes in the public sector, to wit:

> SECTION 16. The Civil Service and labor laws and procedures, whenever applicable, shall be followed in the resolution of complaints, grievances and cases involving government employees. In case any dispute remains unresolved after exhausting all the available remedies under existing laws and procedures, the parties may jointly refer the dispute to the [Public Sector Labor-Management] Council for appropriate action.

Government employees may, therefore, through their unions or associations, either petition the Congress for the betterment of the terms and conditions of employment which are within the ambit of legislation or negotiate with the appropriate government agencies for the improvement of those which are not fixed by law. If there be any unresolved grievances, the dispute may be referred to the Public Sector Labor-Management Council for appropriate action. But employees in the civil service may not resort to strikes, walkouts and other temporary work stoppages, like workers in the private sector, to pressure the Government to accede to their demands. As now provided under Sec. 4, Rule III of the Rules and Regulations to Govern the Exercise of the Right of Government Employees to Self-Organization, which took effect after the instant dispute arose, "[t]he terms and conditions of employment in the government, including any political subdivision or instrumentality thereof and government-owned and controlled corporations with original charters are governed by law and employees therein shall not strike for the purpose of securing changes thereof."

Supreme Court E-Library

II

The strike staged by the employees of the SSS belonging to petitioner union being prohibited by law, an injunction may be issued to restrain it.

It is futile for the petitioners to assert that the subject labor dispute falls within the exclusive jurisdiction of the NLRC and, hence, the Regional Trial Court had no jurisdiction to issue a writ of injunction enjoining the continuance of the strike. The Labor Code itself provides that terms and conditions of employment of government employees shall be governed by the Civil Service Law, rules and regulations [Art. 276]. More importantly, E.O. No. 180 vests the Public Sector Labor-Management Council with jurisdiction over unresolved labor disputes involving government employees [Sec. 16]. Clearly, the NLRC has no jurisdiction over the dispute.

This being the case, the Regional Trial Court was not precluded, in the exercise of its general jurisdiction under B.P. Blg. 129, as amended, from assuming jurisdiction over the SSS's complaint for damages and issuing the injunctive writ prayed for therein. Unlike the NLRC, the Public Sector Labor-Management Council has not been granted by law authority to issue writs of injunction in labor disputes within its jurisdiction. Thus, since it is the Council, and not the NLRC, that has jurisdiction over the instant labor dispute, resort to the general courts of law for the issuance of a writ of injunction to enjoin the strike is appropriate.

Neither could the court *a quo* be accused of imprudence or overzealousness, for in fact it had proceeded with caution. Thus, after issuing a writ of injunction enjoining the continuance of the strike to prevent any further disruption of public service, the respondent judge, in the same order, admonished the parties to refer the unresolved controversies emanating from their employer-employee relationship to the Public Sector Labor-Management Council for appropriate action [*Rollo*, p. 86].

III

In their "Petition/Application for Preliminary and Mandatory Injunction," and reiterated in their reply and supplemental reply,

Supreme Court E-Library

petitioners allege that the SSS unlawfully withheld bonuses and benefits due the individual petitioners and they pray that the Court issue a writ of preliminary prohibitive and mandatory injunction to restrain the SSS and its agents from withholding payment thereof and to compel the SSS to pay them. In their supplemental reply, petitioners annexed an order of the Civil Service Commission, dated May 5, 1989, which ruled that the officers of the SSSEA who are not preventively suspended and who are reporting for work pending the resolution of the administrative cases against them are entitled to their salaries, year-end bonuses and other fringe benefits and affirmed the previous order of the Merit Systems Promotion Board.

The matter being extraneous to the issues elevated to this Court, it is Our view that petitioners' remedy is not to petition this Court to issue an injunction, but to cause the execution of the aforesaid order, if it has already become final.

WHEREFORE, no reversible error having been committed by the Court of Appeals, the instant petition for review is hereby *DENIED* and the decision of the appellate court dated March 9, 1988 in CA-G.R. SP No. 13192 is *AFFIRMED*. Petitioners' "Petition/Application for Preliminary and Mandatory Injunction" dated December 13, 1988 is *DENIED*.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and *Bidin, JJ.*, concur.