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THIRD DIVISION

[G.R. No. 155125. December 4, 2009]

YSS EMPLOYEES UNION-PHILIPPINE TRANSPORT AND GENERAL WORKERS ORGANIZATION, *petitioner, vs.* **YSS LABORATORIES, INC.,** *respondent.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; SECRETARY OF LABOR; CERTIFYING THE LABOR DISPUTE TO THE NLRC FOR COMPULSORY ARBITRATION, ENJOINING THE STRIKING UNION MEMBERS TO RETURN TO WORK AND THE EMPLOYER TO ADMIT THEM UNDER THE SAME TERMS AND CONDITIONS PREVAILING BEFORE THE STRIKE, PROPER. — The Orders dated 11 May 2001 and 9 June 2001 of the Secretary of Labor, certifying the labor dispute involving the herein parties to the NLRC for compulsory arbitration, and enjoining YSSEU to return to work and YSS Laboratories to admit them under the same terms and conditions prevailing before the strike, were issued pursuant to Article 263(g) of the Labor Code. Said provision reads: Art. 263. *Strikes, picketing, and lockouts*. x x x (g) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, **all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout.** The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure compliance with this provision as well as with such orders as he may issue to enforce the same. After martial law was lifted

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and democracy was restored, the assumption of jurisdiction in Art. 263(g) has now been viewed as an exercise of the police power of the State with the aim of promoting the common good. The grant of these plenary powers to the Secretary of Labor makes it incumbent upon him to bring about soonest, a fair and just solution to the differences between the employer and the employees, so that the damage such labor dispute might cause upon the national interest may be minimized as much as possible, if not totally averted, by avoiding stoppage of work or any lag in the activities of the industry or the possibility of those contingencies that might cause detriment to the national interest. In order to effectively achieve such end, the assumption or certification order shall have the effect of automatically enjoining the intended or impending strike or lockout. Moreover, if one has already taken place, all striking workers shall immediately return to work, and the employer shall immediately resume operations and **readmit all workers under the same terms and conditions prevailing before the strike or lockout.**

2. ID.; ID.; ID.; NO GRAVE ABUSE OF DISCRETION AS THE END IN VIEW IS PRESERVING THE *STATUS QUO ANTE* WHILE THE MAIN ISSUES OF VALIDITY OF RETRENCHMENT AND LEGALITY OF STRIKE WERE BEING THRESHED OUT IN PROPER FORUM. — YSS Laboratories' vigorous insistence on the exclusion of the retrenched employees from the coverage of the return-to-work order seriously impairs the authority of the Secretary of Labor to forestall a labor dispute that he deems inimical to the national economy. The Secretary of Labor is afforded plenary and broad powers, and is granted great breadth of discretion to adopt the most reasonable and expeditious way of writing *finis* to the labor dispute. Accordingly, when the Secretary of Labor directed YSS Laboratories to accept all the striking workers back to work, the Secretary did not exceed his jurisdiction, or gravely abuse the same. It is significant at this point to point out that grave abuse of discretion implies a capricious and whimsical exercise of judgment. Thus, an act may be considered as committed in grave abuse of discretion when the same is performed in a capricious or whimsical exercise of judgment, which is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the

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power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility. In the case at bar, there is no showing that the assailed orders were issued in an arbitrary or despotic manner. The Orders dated 11 May 2001 and 9 June 2001 were issued by the Secretary of Labor, with the end in view of preserving the *status quo ante* while the main issues of the validity of the retrenchment and legality of the strike were being threshed out in the proper forum. This was done for the promotion of the common good, considering that a lingering strike could be inimical to the interest of both employer and employee. The Secretary of Labor acts to maintain industrial peace. Thus, his certification for compulsory arbitration is not intended to interfere with the management's rights but to obtain a speedy settlement of the dispute.

3. **ID.; ID.; ID.; RETURN TO WORK ORDER IS MANDATORY, NOT DISCRETIONARY TO THE EMPLOYER.** — By harping on the validity of the retrenchment and on the exclusion of the retrenched employees from the coverage of the return-to-work order, YSS Laboratories undermines the underlying principle embodied in Article 263(g) of the Labor Code on the settlement of labor disputes — that assumption and certification orders are executory in character and are to be strictly complied with by the parties, even during the pendency of any petition questioning their validity. Regardless therefore of its motives, or of the validity of its claims, YSS Laboratories must readmit all striking employees and give them back their respective jobs. Accepting back the workers in this case is not a matter of option, but of obligation mandated by law for YSS Laboratories to faithfully comply with. Its compulsory character is mandated, not to cater to a narrow segment of society, or to favor labor at the expense of management, but to serve the greater interest of society by maintaining the economic equilibrium. Instructive is the ruling of this Court in *Philippine Airlines Employees Association v. Philippine Airlines, Inc.*: The very nature of a return-to-work order issued in a certified case lends itself to no other construction. The certification attests to the urgency of the matter, affecting as it does an industry indispensable to the national interest. The order is issued in the exercise of the court's compulsory power of arbitration, and therefore must be obeyed until set aside. x x x. Certainly, the determination of who among the strikers could be admitted back to work cannot be made to depend upon

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> the discretion of employer, lest we strip the certification or assumption-of-jurisdiction orders of the coercive power that is necessary for attaining their laudable objective. The return-to-work order does not interfere with the management's prerogative, but merely regulates it when, in the exercise of such right, national interests will be affected. The rights granted by the Constitution are not absolute. They are still subject to control and limitation to ensure that they are not exercised arbitrarily. The interests of both the employers and employees are intended to be protected and not one of them is given undue preference.

APPEARANCES OF COUNSEL

Rogee Mayteen B. Espinosa-Datudacula and *Flores Flores and Associates* for petitioner.

Cadiz Tabayoyong for respondent.

D E C I S I O N

CHICO-NAZARIO, *J.*:

Before this Court is a Petition for Review on *Certiorari* filed by petitioner YSS Employees Union (YSSEU) — Philippine Transport and General Workers Organization seeking to reverse and set aside the Decision[1] dated 26 November 2001 and the Resolution dated 29 August 2002 of the Court of Appeals in CA-G.R. SP No. 66095. The said Decision and Resolution nullified the Orders of the Secretary of the Department of Labor and Employment (DOLE) dated 11 May 2001[2] and 9 June 2001[3] which enjoined the strike staged by petitioner, and ordered respondent YSS Laboratories Inc. (YSS Laboratories) to accept the workers back to their work, including those who were retrenched from employment due to serious business losses.

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[1] Penned by Andres B. Reyes Jr. with Associate Justices Conrado M. Vasquez, Jr. and Amelita Tolentino, concurring; *rollo,* pp. 63-78.

[2] *Rollo,* pp. 198-201.

[3] *Id.* at 218-221.

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The inclusion of the employees who were previously terminated from service to the return-to-work order is the hub of this controversy.

YSS Laboratories is a domestic corporation engaged in the pharmaceutical business. YSSEU is a duly registered labor organization and the sole and exclusive bargaining representative of the rank and file employees of YSS Laboratories.

In order to arrest escalating business losses, YSS Laboratories implemented a retrenchment program which affected 11 employees[4] purportedly chosen in accordance with the reasonable standards established by the company. Of the 11 employees sought to be retrenched, nine were officers and members of YSSEU.[5] Initially, these employees were given the option to avail themselves of the early retirement program of the company.[6] When no one opted to retire early, YSS Laboratories exercised its option to terminate the services of its employees as allegedly authorized under Article 283[7] of the Labor Code. Thus, copies of the Notices

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[4] Resie Santos, Edwin Perona, Rogelio Salmorin, Joselina Victoria, Dominador Monterola, Jacqueline Tubale, Loreto Esteves, Jetner Argamaso, Teofilo Pagaduan, Jr., Bernardita Mesias and Alexander Reig. (*Rollo,* pp. 107-128.)

[5] Joselina Victoria – Secretary, Edwin Perona – Auditor, Rogelio Salmorin –P.R.O., Teofilo Pagaduan Jr., – Board Member, Resie Santos, Dominador Monterola, Jacqueline Tubale, Loreto Esteves, Jetner Argamaso – Members.

[6] NLRC Records, Vol. I, p. 75.

[7] ART. 283. *Closure of establishment and reduction of personnel.* — The employer may also terminate the employment of any employee due to the installation of labor saving devices, redundancy, retrenchment to prevent losses or the closing or cessation of operation of the establishment or undertaking unless the closing is for the purpose of circumventing the provisions of this Title, by serving a written notice on the worker and the [Department] of Labor and Employment at least one (1) month before the intended date thereof. In case of termination due to the installation of labor-saving devices or redundancy, the worker affected thereby shall be entitled to a separation pay equivalent to at least his one (1) month pay or to at least one (1) month pay for every year of service, whichever is higher. In case of retrenchment to prevent losses and in cases of closures or cessation of operations of establishment or undertaking not due to serious business losses or financial reverses, the separation pay shall be equivalent to one (1) month pay or at least one-half (½)

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of Termination were filed with DOLE on 19 March 2001 and were served to concerned employees on 20 March 2001.

Claiming that YSS Laboratories was guilty of discrimination and union-busting in carrying out the said retrenchment program, YSSEU decided to hold a strike. After the necessary strike vote was taken under the supervision of the National Conciliation Mediation Board — National Capital Region (NCMB-NCR), YSSEU staged a strike on 20 April 2001.[8]

In order to forge a compromise, a number of conciliation proceedings were conducted by the NCMB-NCR, but these efforts proved futile since the parties' stance was unbending.

This prompted the Secretary of Labor to finally intervene in order to put an end to a prolonged labor dispute. Underscoring the government's policy of preserving economic gains and employment levels, the Secretary of Labor deemed that the continuation of the labor dispute was inimical to national interest. Thus, in an Order dated 11 May 2001, the Secretary of Labor certified the labor dispute to the National Labor Relations Commission (NLRC) for compulsory arbitration. Accordingly, all striking workers were thereby directed to return to work within 24 hours from their receipt of the said Order, and YSS Laboratories to accept them under the terms and conditions prevailing before the strike. The Order was worded in this wise:

> CONSIDERING THESE PREMISES, this Office hereby certifies the labor dispute at [YSS Laboratories] to the [NLRC] for compulsory arbitration, pursuant to Article 263(g) of the Labor [Code], as amended.
>
> All striking workers are hereby directed to return to work within twenty four (24) hours from receipt of this Order and for the Company to accept them back under the same terms and conditions of employment prior to the strike.
>
> The parties are further directed to cease and desist from committing any act which might further worsen the situation.

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month pay for every year of service, whichever is higher. A fraction of at least six (6) months shall be considered as one (1) whole year."

[8] NLRC Records, Vol. I, pp. 1413-144.

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Let the entire records of this case be forwarded to the NLRC for its appropriate action.[9]

YSS Laboratories, however, refused to fully comply with the directive of the Secretary of Labor. In its Urgent Motion for Reconsideration,[10] YSS Laboratories argued that nine union officers and members who were previously terminated from service pursuant to a valid retrenchment should be excluded from the operation of the return-to-work order. It also asserted that the union officers[11] who participated in the purported illegal strike should likewise not be allowed to be back to their employment for they were deemed to have already lost their employment status.

YSSEU, for its part, moved that YSS Laboratories be cited for contempt for refusing to admit the 18 workers back to work. In addition, YSSEU prayed for the award of backwages in favor of these employees who were not permitted by YSS Laboratories to return to their respective stations despite the Secretary of Labor's directive.[12]

Acting on the aforesaid motions, the Secretary of Labor, on 9 June 2001, granted the motion of YSSEU and thus issued an Order[13] directing YSS Laboratories to immediately accept back to work the nine retrenched employees and the nine union officers who initiated the alleged illegal strike pending determination of the validity of the retrenchment and illegal strike cases. Should actual physical reinstatement be no longer possible, YSS Laboratories was ordered to reinstate the striking workers in the company's payroll. The decretal portion of the Order reads:

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[9] *Rollo*, pp. 200-201.

[10] *Id.* at 202-216.

[11] Noel Gaelon – President, Mariozaldy Racelis – Vice-President, Perlina Cada – Treasurer, Enrique Perona, Gerson Niebla, Medardo Suaiso, Hernan Mecasero, Homer Rada and Prescilla Godoy – Board Members.

[12] *Rollo,* pp. 222-225.

[13] *Id.* at 218-221.

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WHEREFORE, [YSS Laboratories] is directed to immediately accept back to work the nine (9) retrenched employees and the nine (9) union officers and members against whom an illegal strike case has been filed, by the NLRC, pending determination of the validity of the retrenchment and illegal strike cases. In case the actual and physical reinstatement is not feasible, [YSS Laboratories] is directed to effect payroll reinstatement with the workers' salaries payable every two (2) weeks effective from the [YSS Laboratories'] receipt of this Order.[14]

Unyielding, YSS Laboratories brought a Petition for *Certiorari*[15] under Rule 65 of the Rules of Court before the Court of Appeals, seeking to annul the certification order and the return-to-work order issued by the Secretary of Labor. While recognizing the wide latitude afforded by law to the Secretary of Labor to issue Assumption of Jurisdiction and Certification Orders, YSS Laboratories claimed that the issuance of the 11 May 2001 and 9 June 2001 Orders was tainted with utter grave abuse of discretion and patent bias in favor of YSSEU. Again, YSS Laboratories asseverated that the nine employees who were previously dismissed from employment should be excluded from the coverage of the return-to-work order since they were lawfully retrenched by the company.

On 26 November 2001, the Court of Appeals rendered a Decision granting the Petition and reversing the assailed Orders dated 11 May 2001 and 9 June 2001, as they were made with grave abuse of discretion amounting to lack or excess of jurisdiction. The appellate court found that YSS Laboratories validly carried out its retrenchment program, which effectively severed the concerned employees' employment with the company. For lack of factual and legal basis, the Court of Appeals struck down the strike staged by YSSEU for being illegal. The appellate court thus disposed:

WHEREFORE, premises considered, the Petition is **GRANTED**; and the two (2) assailed Orders of public respondent Secretary of

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[14] *Id.* at 221.

[15] CA *rollo*, pp. 1-69.

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Labor in NCMB-NCR-NS-03-086-01/0S-AJ-0006-2001 are hereby **SET ASIDE** for being **NULL** and **VOID**.[16]

Similarly ill-fated was YSSEU's motion for reconsideration which was denied through the Court of Appeals' Resolution issued on 29 August 2002.[17]

YSSEU is now before this Court assailing the aforementioned decision and resolution of the Court of Appeals on the ground that the appellate court erred in reversing the Orders of the Secretary of Labor.

For our resolution are the following issues:

I.

WHETHER OR NOT THE SECRETARY OF LABOR GRAVELY ABUSED ITS DISCRETION IN CERTIFYING THE LABOR DISPUTE TO THE NLRC FOR COMPULSORY ARBITRATION.

II.

WHETHER OR NOT THE RETRENCHED EMPLOYEES SHOULD BE EXCLUDED FROM THE OPERATION OF THE RETURN TO WORK ORDER.

While this Court prefers to rule on the issue of the validity of the retrenchment program as well as on the questions on the legality or illegality of the strike, and on the individual liabilities of the strikers, if any, we cannot put an end to this protracted labor dispute, however, without preempting the NLRC in the disposition of these issues and thereby transgressing the elementary doctrine of primary jurisdiction.[18] The pivotal issue in this petition

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[16] *Rollo*, p. 78.

[17] *Id.* at 80.

[18] Doctrine of Primary Jurisdiction states when the courts cannot and will not resolve a controversy involving a question that is within the jurisdiction of an administrative tribunal, especially where the question demands the exercise of sound administrative discretion requiring the special knowledge, experience and services of the administrative tribunal to determine technical and intricate matters of fact. (See *Ros v. Department of Agrarian Reform*, G.R. No. 132477, 31 August 2005, 468 SCRA 471, 483-484.)

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centers on whether or not the retrenched employees should be excluded from the coverage of the return-to-work-order.

YSSEU maintains that once a labor dispute is certified to the NLRC for compulsory arbitration, the employer should readily admit **all striking employees** under the *status quo ante*. It argues that the primary reason why the strike was conducted in the first place was to protest the implementation of the retrenchment program, which clearly discriminated against union officers and members. It bears to stress that out of the 11 employees affected by retrenchment, four are union officers and five are union members.

YSS Laboratories, on the other hand, insists that those employees who were already separated from service due to a valid retrenchment should not be readmitted back to work anymore. It avers that the retrenched employees were chosen after a thorough evaluation of their work performance, including their frequencies of absence and tardiness, and their respective lengths of service, rendering YSSEU's claims of discrimination and union busting, preposterous.

The petition is impressed with merit.

The Orders dated 11 May 2001 and 9 June 2001 of the Secretary of Labor, certifying the labor dispute involving the herein parties to the NLRC for compulsory arbitration, and enjoining YSSEU to return to work and YSS Laboratories to admit them under the same terms and conditions prevailing before the strike, were issued pursuant to Article 263(g) of the Labor Code. Said provision reads:

> Art. 263. *Strikes, picketing, and lockouts*.
>
> x x x x x x x x x
>
> (g) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the

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assumption or certification order. If one has already taken place at the time of assumption or certification, **all striking or locked out employees shall immediately return to work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout.** The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure compliance with this provision as well as with such orders as he may issue to enforce the same. (Emphasis supplied.)

After martial law was lifted and democracy was restored, the assumption of jurisdiction in Art. 263(g) has now been viewed as an exercise of the police power of the State with the aim of promoting the common good:[19]

> [I]t must be noted that Articles 263 (g) and 264 of the Labor Code have been enacted pursuant to the police power of the State, which has been defined as the power inherent in a government to enact laws, within constitutional limits, to promote the order, safety, health, morals and general welfare of society. The police power, together with the power of eminent domain and the power of taxation, is an inherent power of government and does not need to be expressly conferred by the Constitution. x x x.[20]

The grant of these plenary powers to the Secretary of Labor makes it incumbent upon him to bring about soonest, a fair and just solution to the differences between the employer and the employees, so that the damage such labor dispute might cause upon the national interest may be minimized as much as possible, if not totally averted, by avoiding stoppage of work or any lag in the activities of the industry or the possibility of those contingencies that might cause detriment to the national interest.[21]

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[19] *Phimco Industries, Inc. v. Acting Secretary of Labor Brillantes*, 364 Phil. 402, 409 (1999).

[20] *Philtread Workers Union (PTWU) v. Confesor*, 336 Phil. 375, 380 (1997); *Union of Filipro Employees v. Nestlé Philippines, Inc.*, G.R. Nos. 88710-13, 19 December 1990, 192 SCRA 396, 409.

[21] *Telefunken Semiconductors Employees Union v. Court of Appeals*, 401 Phil. 776, 802 (2000).

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In order to effectively achieve such end, the assumption or certification order shall have the effect of automatically enjoining the intended or impending strike or lockout. Moreover, if one has already taken place, all striking workers shall immediately return to work, and the employer shall immediately resume operations and **readmit all workers under the same terms and conditions prevailing before the strike or lockout.**[22]

YSS Laboratories' vigorous insistence on the exclusion of the retrenched employees from the coverage of the return-to-work order seriously impairs the authority of the Secretary of Labor to forestall a labor dispute that he deems inimical to the national economy. The Secretary of Labor is afforded plenary and broad powers, and is granted great breadth of discretion to adopt the most reasonable and expeditious way of writing *finis* to the labor dispute.[23]

Accordingly, when the Secretary of Labor directed YSS Laboratories to accept all the striking workers back to work, the Secretary did not exceed his jurisdiction, or gravely abuse the same. It is significant at this point to point out that grave abuse of discretion implies a capricious and whimsical exercise of judgment. Thus, an act may be considered as committed in grave abuse of discretion when the same is performed in a capricious or whimsical exercise of judgment, which is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility.[24] In the case at bar, there is no showing that the assailed orders were issued in an arbitrary or despotic manner. The

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[22] *Trans-Asia Shipping Lines, Inc.-Unlicensed Crews Employees Union-Associated Labor Unions (Tasli-Alu) v. Court of Appeals,* G.R. No. 145428, 7 July 2004, 433 SCRA 610, 618.

[23] *Telefunken Semiconductors Employees Union v. Court of Appeals*, *supra* note 21.

[24] *Philtread Workers Union (PTWU) v. Confesor*, *supra* note 20.

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Orders dated 11 May 2001 and 9 June 2001 were issued by the Secretary of Labor, with the end in view of preserving the *status quo ante* while the main issues of the validity of the retrenchment and legality of the strike were being threshed out in the proper forum. This was done for the promotion of the common good, considering that a lingering strike could be inimical to the interest of both employer and employee. The Secretary of Labor acts to maintain industrial peace. Thus, his certification for compulsory arbitration is not intended to interfere with the management's rights but to obtain a speedy settlement of the dispute. This is well-articulated in *International Pharmaceuticals, Inc. v. Secretary of Labor,*[25] as follows:

> Plainly, Article 263 (g) of the Labor Code was meant to make both the Secretary (or the various regional directors) and the labor arbiters share jurisdiction, subject to certain conditions. Otherwise, the Secretary would not be able to effectively and efficiently dispose of the primary dispute. To hold the contrary may even lead to the absurd and undesirable result wherein the Secretary and the labor arbiter concerned may have diametrically opposed rulings. As we have said, "(i)t is fundamental that a statute is to be read in a manner that would breathe life into it, rather than defeat it.

By harping on the validity of the retrenchment and on the exclusion of the retrenched employees from the coverage of the return-to-work order, YSS Laboratories undermines the underlying principle embodied in Article 263(g) of the Labor Code on the settlement of labor disputes — that assumption and certification orders are executory in character and are to be strictly complied with by the parties, even during the pendency of any petition questioning their validity. Regardless therefore of its motives, or of the validity of its claims, YSS Laboratories must readmit all striking employees and give them back their respective jobs. Accepting back the workers in this case is not a matter of option, but of obligation mandated by law for YSS Laboratories to faithfully comply with. Its compulsory character is mandated, not to cater to a narrow segment of society, or to

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[25] G.R. Nos. 92981-83, 9 January 1992, 205 SCRA 59, 66.

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favor labor at the expense of management, but to serve the greater interest of society by maintaining the economic equilibrium.

Instructive is the ruling of this Court in *Philippine Airlines Employees Association v. Philippine Airlines, Inc.*:[26]

> The very nature of a return-to-work order issued in a certified case lends itself to no other construction. The certification attests to the urgency of the matter, affecting as it does an industry indispensable to the national interest. The order is issued in the exercise of the court's compulsory power of arbitration, and therefore must be obeyed until set aside. x x x.

Certainly, the determination of who among the strikers could be admitted back to work cannot be made to depend upon the discretion of employer, lest we strip the certification or assumption-of-jurisdiction orders of the coercive power that is necessary for attaining their laudable objective. The return-to-work order does not interfere with the management's prerogative, but merely regulates it when, in the exercise of such right, national interests will be affected. The rights granted by the Constitution are not absolute. They are still subject to control and limitation to ensure that they are not exercised arbitrarily. The interests of both the employers and employees are intended to be protected and not one of them is given undue preference.

WHEREFORE, premises considered, the instant Petition is *GRANTED*. The Decision dated 26 November 2001 and Resolution dated 29 August 2002 of the Court of Appeals in CA-G.R. SP No. 66095 are *REVERSED* and *SET ASIDE*. The Orders dated 11 May 2001 and 9 June 2001 of the Secretary of the Department of Labor and Employment in NCMB-NCR-NS-03-086-01/08-AJ-0006-2001 are thereby *REINSTATED*. No costs.

SO ORDERED.

Corona (Chairperson), Velasco, Jr., Nachura, and *Peralta, JJ.,* concur.

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[26] 148 Phil. 386, 392 (1971).