

Complainants

Names: Korean House for International Solidarity (KHIS), Republic of Korea
Korean Confederation of Trade Unions (KCTU), Republic of Korea
Workers Assistance Center (WAC), Philippines
Chongwon Union, Philippines

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Company information

Company name : Chongwon Fashion Inc. (Now changed to Chong woo)

Representative : Yong-Ryol Kim

Address : South Avenue .Philippine Economic Zone Authority Rosario, Cavite 4106

Tel: (63-46) 437-0316~9

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Product information : T-shirts

Start of operation: 1990

Launch mode: Affiliate Company

Parent company : Chongwon Trading

Address : 2F, Booil Bldg., 27-20 Samsung-Dong, Gangnam-Gu, Seoul, South

Representative: Hae-Bum, Song

Tel.: Not available

Facts of the Case

According to the testimony of employees of Chongwon Fashion. Inc, in August 2001, they filed Petition for Certification Election (PCE). When the election was conducted they lost after the management threatened its workers it would close down should the

union wins. In 2002, when the union again re-filed the petition for CE, the company terminated half of the union members and majority of their officers following the illegal closure of the factory's sweater department. The union members held a picket line that lasted for six months to protest the illegal dismissal of their union members and for union busting.

In 2003, after the union elected another set of new officers they filed another petition for CE. On August 5, 2004 the long overdue election was held and the union won the election.

Till the union election on August, 2004, several attempts had been made by the management to either oppose the conduct of election or delay it by employing delaying tactics, in particular of questioning authority of the union. It also made several appeals and petition to prevent the election from pursuing despite an existing Department Order (DO) 40-03 by the Department of Labor and Employment (DOLE) prohibiting any appeals for CE.

On August 10, 2004, the management once again questioned the result of the election when they filed formal election protest. On November 12, 2004 Med-Arbitrator Bactin issued an order denying the election protest of the management and subsequently certified the union as the sole and exclusive bargaining representative of all regular rank-and-file workers of CWFI. On December 8, 2004 management appealed this decision to the Office of the Secretary of DOLE but was also denied on April 21, 2005.

On March 14, 2005 the respondent-company filed an Urgent Motion for Issuance of Temporary Restraining Order (TRO) (SP CA No. 85328) on the execution of order by the DOLE declaring the union as the SEBR. On May 10, 2005 the Honorable Court of Appeals denied the said Urgent Motion for TRO. On May 12, 2005 management filed a Motion for Reconsideration to the April 21, 2005 decision. Again, the said Motion had been denied on June 27, 2005 decision of the said office.

On July 9, 2005 an Entry of Judgment had been issued by the Office of the Secretary (OS-DOLE) declaring the finality of the order certifying the union as the sole and exclusive bargaining representative of all regular rank-and-file workers of the company.

On July 19, 2005 the company filed another Motion to Lift/Expunge Entry of Judgment

at the OS-DOLE. The union, however, filed a Motion to Cite Respondents in Contempt before the OS-DOLE finding the said motion perverted. The said motion had been filed due to the continuous denial of the respondent to collectively negotiate with the union despite several Letters of Intent (LOI's) duly served to the company.

Furthermore, sometime in a later date of July 2005, the company filed another Petition for Certiorari (SP C.A. No. 91710) assailing the resolutions dated April 21, 2005 and June 27, 2005, in which the instant case is still pending for resolution of the Court of Appeals. Likewise, this is the second petition for certiorari filed by the company on the same case of Petition for certification election and certification election of the union.

On August 31, 2005 the Honorable Court of Appeals denied the first petition for certiorari. The company moved for reconsideration of the said order but it was again denied on April 4, 2006. Since April 21, 2005, when the Office of the Secretary affirmed the union as the sole and exclusive bargaining representative of all regular workers the union had already sent the management a letter of intent (LOI) to start the collective bargaining negotiation. And since then, eight LOI's from dated April 21, 2005; June 3, 2005; July 5, 2005; August 1, 2005; August 5, 2005; April 18, 2006; May 17, 2006; and June 24, 2006 had already been filed by the union but were refused by the management.

Instead of commencing the negotiation with the union, the management is showing blatant disrespect and disregard of the union member's rights. After the union won the election, the management has since implementing stricter company rules and regulations (CRR). It also imposed 15 days suspension to active union officers and members even though they committed violations for first offenses. In some cases, some union officers and active union members have had fabricated company violations.

Also, the management continued on enticing the union's leaders to resign in exchange of payment of their separation pays and threatened them with filing of charges, warnings, suspensions or transfers to other departments if they refused to. In one incident, the union's president, Ressoreccion Ravelo, who was originally assigned as sewer had her assignment demoted into trimmer.

Also on August 30, the union member started holding picket in front of the company's factory after the company's declared an indefinite vacation--which means the workers would have no work due absence of job contracts. The union has had standing Notice of

Strike filed before the National Conciliation and Mediation Board (NCMB-DOLE). They are on preparation of holding a strike after its members voted to go on strike. The union has since been demanding for the CBA negotiation to begin.

The union has had complaint filed against their management before the NCMB, National Labor Relations Commission (NLRC), Department of Labor and Employment-Office of the Secretary (DOLE-OS) and against the management's legal counsel, Atty. Omar Francisco, before the Integrated Bar of the Philippines (IBP).

On August 31, at around 4:30pm at least 40 Jantro security guards and policemen attached to the Philippine Economic Zone Authority (PEZA) violently broke into and dismantled the worker's picket line and makeshift of the workers. The guards and policemen were onboard two pick-up trucks. They were armed with clubs, short firearms and had their nameplates covered. At the time, some of the workers were injured when they fought it out.

After about 15 to 20 minutes, while the workers were trying to set-up again the picket line, around 60 Jantro guards at PEZA police returned onboard pick-up trucks and police mobile. Sarasua was quoted as saying: "Ang pagpunta namin dito (piketlayn) ay utos ng nakakataas at kung hindi namin gagawin ay kami ang malilintika .(We have orders from our higher officials to dismantle the picket line. If we won't do it, we'll be in trouble)". The tension flared up when Sarasua ordered his men to break the picket line and seized the worker's belongings. The workers at the time joined hand to prevent the guards and police from attacking them and breaking into their picket line again.

On September 19, a dialogue was held regarding the union officer's demand to begin negotiation for their CBA and reinstatement of two of their officers who are illegally terminated from their work

The union's demand, however, were not resolved during the dialogue. Once again, the management's legal counsel insisted it could not begin negotiation for the CBA until the pending appeals on the matter is resolved by the Court of Appeals. The management likewise refused to reinstate union officers. The PEZA officers wanted the union officers to removed their makeshift tents built in front of the factory. The union officers, however, defied PEZA's orders to remove their makeshift tents until their demands are met and that it is their right. The union had already filed notice of strike (NOS)

therefore setting-up of picket line was legal.

On September 20, another dialogue with the union officers and the management was held inside the management's office. A representative from Wal-Mart in the Philippines, Edwina Reunilla, and their auditor James Cabrera, attended the said dialogue. Instead, Reunilla threatens Wal-Mart could pull out their orders from the factory if the conflict is not resolve and for not complying their company's requirement.

When Kim summoned the union officers for a dialogue inside their office on September 21, once again he refused to discuss matters regarding CBA and instead urged the union to cooperate with them to help them pay the company's debts. Kim claimed the company is heavily indebted amounting to USD 700,000 but did not give any proof of document.

He instead told the union officers he could just leave out of the country for South Korea once the company bankrupts and the workers may not be paid of their separation pays and benefits.

On September 25, the union members declared a strike. About 116 workers majority of them are women picketed in front of the factory. The management has since begun hiring over hundreds of workers obviously as temporary replacement for the union members in preparation for the impending strike.

No untoward incidents between the strikers and non-strikers took place until at around 9:45am when 40 PEZA police and Jantro security guards arrived and started violently dispersing the workers on strike. At least 15 workers suffered head and body injuries. They assaulted the strikers without any provocation who at that time holding a peaceful picket.

On September 26, PEZA police and Jantro security guards drastically imposed blockade of food supplies to the workers' picket line. Following a failed attempt to violently disperse strikers, the PEZA police and Jantro security guards built a blocking point to prevent entry of food and to isolate the picket line. At least 70 union members were holed-up at the picket line at the time. They blocked the two corners of the road heading to picket line. On this day, the CWFI management served notice of termination to 71 workers on strike.

On September 27, another 22 union members were injured, one of whom collapsed, when PEZA police and Jantro security guards once again assaulted and violently dispersed them at 9am. The union reported that the attackers resorted on mashing the breasts of some of the female strikers, brutally hit the workers--most of whom are female--with clubs.

In the afternoon Of September 27, Industrial Relations Division Chief Atty Arada of PEZA called a dialogue on all parties concerned in the dispute at CWFI. The terms agreed on the said meeting were: food blockade to be lifted by PEZA, PEZA police and Jantro guards would stay 50 meters away from the strikers across the street; all strikers will be allowed to enter freely inside the CEPZ and in their strike area; makeshift tents would not be demolished without lawful written order. The signing, however, did not push through because PEZA and the CWFI management have no real intention to implement the agreed terms in the dialogue

On September 27, around 9:30pm, eight union officers headed by Ravelo and Arevalo were once again barred from entry and harassed by Jantro guards at the gate of CEPZ.

The September 27 Agreement has not been implemented and blatantly ignored by PEZA. Since September 28, workers on strike have totally been prevented and banned by Peza police and Jantro security from entering the CEPZ allegedly upon the order of PEZA Director General Lilia de Lima. The food blockade is also still in effect.

On September 30, the management issued another termination notice to the strikers. A total of 116 strikers, aside from two union leaders dismissed prior to strike, as of this date had been illegally dismissed during the strike.

On October 12, the representatives of Commission on Human Rights (CHR) arrived at the picket line of Chong Won.

On October 15, the management created a pseudo "Caretaker Committee" in the name of the union. And both the management and Caretaker Committee have promised to precede the group negotiation and to end their strike.

On October 19, 2006, the managements dismantled the picket lines of the workers on

strike. Based on the workers sworn statements, around 800 workers mainly composed of scabs and recontract workers went out of the company at around 8:30 a.m . Every time they try to put something to shelter them from the heat of the sun or cold of the night, the company guards and PEZA's security forces would immediately dismantle it. The moment of November begins, Even if Walmart asked the management make union members return to their work, but the management rejected it.

Instead of this rejection, the management presented unidentified document about finance situation for previous three years. Moreover, Walmart suggested that the management have to start the negotiation with the union after made a hiring agreement between 5 and 10 years, the management rejected this suggestion as well.

At this situation, union workers made of 10 to 12 continually kept picket line of the workers strike and went on strike. The union members guarded against blockade and attack, because most of the union members couldn't enter PEZA (Philippine Economic Zone Authority)

On 5th February 2007, The DOLE cancelled the application for the union; they judged the union no longer represents the union members. However the union insists that the company offered fifty thousand peso to The DOLE in this process.

On 26th April 2007, Angelo Enrico Portillo who is a mediator of National Relations Commission (NLRC) makes an announcement Chong Won union's strike is illegal. But the union insists that this is a very tendentious decision and he has taken three hundred thousand peso, (six million won into Korean money) as payment for that decision.

The union prosecuted him for corruption to the Philippines integrity commission. Chongwon fashion Inc changed a name of the company to Chongwoo trading. The union assists that this change of the name is totally concerned buyers of The U.S to avoid order interception by suppression of labor rights based on business ethics policies. After the announcement of an illegal strike, the president Kim demands removal of illegal strike in front of company before 15 May. The union impugned the decision of an illegal strike on 18 May.

On 27 May, Caretaker Committee has asked for an interview with the union. They said that the president Kim suggested he will offer retiring allowance as to work 3days a year and he will also offer retiring allowance as to work 5 days a year if the union

returns to the work. Besides he said it is the kind of charity to give alms to losers. In case the union members don't accept his suggestion, he will close down the factory and will file for bankruptcy. However, the union members rejected this suggestion.

On 10th June, at around 8pm, nine of suspicious men showed up with wearing a mask at the encampment where employees have gathered. They made a contract with management on condition that it makes strike end in exchange of 2 million Peso. And they also threatened to kill the employees by ones unless they stop going on strike. The suspicious people even make employees notify the police to show the union members couldn't get help from police.

On 11th June, around 3:30am 20 suspicious people armed themselves with M-16 came to an encampment, broke employees' encampment and aimed at the union members with a gun by saying that if they remain until the morning, they would be expected to be killed. And then they were disappeared with all belongings of employees.

Directly after this accident, the union members are going on sit down strike at PEZA after get out of an encampment. Besides a woman worker who was mentally shocked by situation of that day is receiving medical attention. Chongwoo trading has filed for bankruptcy to the court; the union members are not included in a list of creditors. If the company goes bankruptcy, the total amount of the wage they have to pay is equivalent to approximately 840 thousand dollars in the U.S dollars. The union has been made a complaint against Philippine police and others concerning the violence on 10th June and 11th.

Issues Concerned

1) Although the DOLE recognized quality of the Union of ChongWon Fashion, the management has not negotiated with the union. . It is totally against GME article 1 of chapter 4 'employment and industrial relations'- "Respect the right of their employees to be represented by trade unions and other bona fide organizations of employees, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on employment conditions." I would like to ask your opinion concerning this point.

2) When the management had an interview with the union representatives, they rejected group negotiation and did not give appropriate information because of budget deficit. It is considered violation following provision. According to the GME Employment and industrial relations of chapter 4, provision 2 “Provide facilities to employee representatives as may be necessary to assist in the development of effective collective agreements.” And also “Provide information to employee representatives who are needed for meaningful negotiations on conditions of employment.” And also was written provision 3 “ Provide information to employees and their representatives which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as whole.” In addition, it is against article 4 of chapter 3 disclosure “Enterprises should also disclose material information on: a) the financial and operating results of the company.”

3) According to GME 7 article of 4th chapters, “In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organize, not threaten to utilize a capacity to transfer the whole or part of an operating unit from the country concerned nor transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organize.” therefore we are judged by the management has threatened and limited the union’s right to organize - If the labor union organized, the factory will be closed.

4) In accordance with the provision of Article 7 of chapter1 “The entities of a multinational enterprise located in various countries are subject to the laws of these countries.” Both the DOLE and the court recommend that the management should recognize entity of the union and negotiate with them. In despite of the union went on strike and demonstrated under the legally procedure, the things that they didn’t respond to group negotiation and attacked to the union are against present laws of Philippine.

5) In accordance with the provision of GME chapter 6 combating bribery, “Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or undue advantage to obtain or retain business or other improper advantage. Nor should enterprises be solicited or expected to render a bribe or other undue advantage.” We ask the investigation of in this part which union is asserting the management gave a bribe to government.

6) From common sense point of view, if the testimony of the union members are true, I have come to the conclusion that it is impossible without management's intervention and connivance. Because entrance to the encampment in the Philippine Economic Zone Authority (PEZA) is totally restricted, these suspicious men even trafficked and threw out women workers into road. In accordance with the provision of article 2 of chapter 2, "In particular, give due consideration to those countries' aims and priorities with regard to economic and social progress, including industrial and regional development, the protection of the environment and consumer interests, the creation of employment opportunities, the promotion of innovation and the transfer of technology." It is not only against this provision and also serious violation of human rights to deny basically exemplary custom of the company. And these behaviors could be the worst case for carrying out respect for human rights upon OECD guideline and all sorts of international standards concerning multinational enterprises. Therefore, Please conduct a thorough investigation into relationships with violence happened on 6th August 2007. In particular, this problem is come to the fore with political killing which was brought up recently in Philippine, so many International labor organizations and human rights organizations taking note of this point. It is a serious issue of special concerns and investigation needed from domestic office.