

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
Phils. Jeon Union, Philippines
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Company information

Company name: Phils. Jeon Garments, Inc.
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Product information: T-shirts, Underwear
Start of operation: 1990
Launch mode: Affiliate Company

Parent company: Il-Kyoung Co. Ltd.
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Facts of the Case

In 2003, the workers in Phils. Jeon Garments, Inc. formed their trade union, Kaisahan ng mga Manggagawa sa Phils. Jeon, Inc. (KMPJI-Ind.) and prepared for the Certificate of Election (CE). However, the Certificate of Election (CE) was delayed because of the interference of the management. The management not only threatened to close down should the union win the election, but also filed a motion to postpone the date for the election it had promised to the union.

On Aug. 16, 2004, the election was held inside the factory. The workers finally organized the union by 277 vs. 71 votes after one year's waiting for the election.

Once the union won the election, the management filed a protest questioning the result of the election before the Department of Labor and Employment (DOLE). In their protest, they claimed that there were 22 workers who have not been able to vote and that there was no

formal notice posted prior to the election. The DOLE, however, dismissed the company's protest and recognized the result of the election in Nov. 2004.

Although the management submitted another protest to Secretary of the DOLE, The DOLE made a decision rejecting company's protest on March 1 and July 22, 2005. The DOLE has declared the union as a sole and exclusive bargaining representative (SEBR) to negotiate with the management on behalf of the workers. In Nov. 19, 2005, the labor department issued an Entry of Judgment proclaiming its decision recognizing the union as final and executory.

However, the company appealed for the DOLE's decision, when it filed another petition for certiorari before the Court of Appeals (CA) on Dec. 29, 2005. Because of technical irregularities, this appeal which questioned about the union's legitimacy was dismissed by court in less than 4 months.

Since March 21, 2005, the union had already sent a Letter of Intent (LOI) to the management to begin negotiation for Collective Bargaining Agreement (CBA). The management continued on refusing to consider the union's request claiming their appeal on the matter is still pending. Such action by the management was illegal. According to the existing laws, the final decision by the DOLE could not be overturned in absence of a Temporary Restraining Order (TPO).

On Aug. 12, 2005, the union's president Emmanuel Bautista was dismissed in absence of sufficient reasons after one month's suspension from company. The company expressed that he had committed a serious misconduct, but the members of the union believed that he was fired because he was the president of the union. Before Emmanuel Bautista's dismissal, he tried to complain about employees being treated too strictly to company's rules. Instead of making effort to resolve this problem, one Korean manager even tried to provoke aggressive behavior. Therefore the union believes that the management concerned about his leadership and decided to take an action.

Although the union sent written Letters of Intent (LOI) requesting collective bargaining to the management 9 times in one year, the management refused to negotiate with the union and even rejected to have a dialog with the union. To protest against the management's attitude, the union made a noisy sound everyday and the members of the union wore ribbons and attached placards in July 2006.

Over Aug. 29 and 31, the management forced the suspension of 63 union members without prior notice. The management claimed that there was not enough work to do. Contrary to the management's argument, however, temporary contract workers have done their work as usual.

The union filed a Notice of Strike for the management before the National Conciliation and Mediation Board (NCMB) for their continued refusal to bargain, illegal dismissal of the union president Emmanuel Bautista, and attempts to destroy the union. A separate complaint was also filed before the National Labor Relations Commission (NLRC) and Regional Arbitration Board (RAB-IV) for the forcible leave of absence.

On Sept. 1, 2006, the union held an election to make a decision to either go on strike or not. The result of an election was to go on strike with the agreement of 179 persons among total 204 union members. On the point of the strike, the management gave relatively aggressive

union members a warning and gave a pressure such as they would not operate their factory every Monday for lack of enough work.

On Sept. 25, the union declared and went on strike because of the company's continuous rejection of collective bargaining. As soon as the union declared strike, the management strongly warned the workers that they would be fired if they go on strike.

On Sept. 27 around 8:30 pm, in the process of forceful dispersion of the workers on strike, the police and 50 Jantro Safty Guards attacked the workers and as a result, 25 workers suffered injuries in their heads and bodies. Some policemen and Jantro Safty Guards had a strong smell of alcoholic beverage and they even seemed to carry on the attack after taking some medicine. They were overly unstable with senseless behavior in process of this attack.

To resolve the issue peacefully, both the management and the union had already agreed to have a dialog at the Philippine Economic Zone Authority (PEZA) on Sept. 28. However, just 1 day before the agreed dialog, the management asked the police to move in on an encampment where striking workers have gathered and forcefully disperse the workers.

From the dispersion operation of Sept. 27, carrying in of any food to the union's encampment was blockaded. If any union member wanted to go out for having food outside, he or she was not allowed to come back to the Philippine Economic Zone Authority (PEZA) again.

In addition, the management newly organized "Caretaker Committee" which was made of non-union workers to deny Phils. Jeon Union's only and exclusive right to collective bargaining.

On Oct. 19, 2006, with 20 non-union workers under the Korean manager Donggon Kim's direction, the removal of the union's encampment and dispersion operation was carried out by 180 non-union workers, 25 Jantro Safty Guards and the police.

On Feb. 7, 2007, The DOLE withdrew its previous decision stating that Phils. Jeon Union no longer represents union members. The union has a strong doubt that the management had provided The DOLE with 50 thousand peso in this process.

At 12 am on Aug. 6, 2007, two women workers sleeping at the encampment in front of their garment factory were attacked by suspicious men wearing masks. They came by a truck and forcibly have tied hands and legs of two women workers with adhesive tapes. Soon after women's faces were covered with towels and blindfolded. After doing so, the attackers took the victims and their belongings into the vehicle. They ran away after throwing out the two women at highway next to the Philippine Economic Zone Authority (PEZA).

Issues Concerned

1) Although the DOLE recognized the qualification of the union, 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.” We would like to ask your opinion concerning this point.

2) According to GME article 7 of chapter 4, “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.” We are concerned that the management has restricted the union's right to organize by threatening that it would close the factory if the union were to be organized.

3) In accordance with the provision of GME article 7 of chapter 1 “The entities of a multinational enterprise located in various countries are subject to the laws of these countries.” The DOLE and Court recommend that the management should recognize entity of the union and get involved in collective bargaining with the union. Although the union went on strike and demonstrated through the procedure provided in Philippine laws, the fact that the company didn't respond to collective bargaining and attacked the union is against present laws of Philippine.

4) In accordance with the provision of the GME chapter 6 “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 request the investigation whether the management gave a bribe to the government officials.

5) We have come to the conclusion that it is impossible without the management's intervention and connivance for those suspicious men to abduct and throw out women workers into road. The entrance to the encampment in the Philippine Economic Zone Authority (PEZA) is totally restricted. In accordance with the provision of the GME article 2 of chapter 2, “Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.” It is not only against this provision and also serious violation of human rights fundamentally denying GME's pursuit of best practices of companies. In addition, these conducts could be the worst case not carrying out respect for human rights upon OECD guideline and all sorts of international standards concerning multinational enterprises.

Therefore, we urge the NCP to conduct a thorough investigation into how the company is related to the violence happened on Aug. 6, 2007. In particular, this issue a very serious one drawing attention of so many international labor organizations and human rights organizations in relation to the political killings which was brought up recently in Philippine. This is a serious issue in need of special concerns and investigation of the NCP.