

In the Matter of BANCO POPULAR DE PUERTO RICO (SANTURCE BRANCH)
and UNION DE EMPLEADOS DE BANCOS DE PUERTO RICO, (C. G. T.)

Case No. 24-R-72.—Decided April 21, 1945

Mr. Gabriel de la Haba, of San Juan, Puerto Rico, and *Mr. Rafael Carrion, Jr.*, of Santurce, Puerto Rico, for the Company.

Mr. Antonio Martorell, of San Juan, Puerto Rico, and *Mr. Helion Cruz Ginorio*, of Santurce, Puerto Rico, for the Union.

Miss Aida Casanas, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Union de Empleados de Bancos de Puerto Rico (C. G. T.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Banco Popular de Puerto Rico (Santurce Branch), Santurce, Puerto Rico, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Earl S. Bellman, Trial Examiner. Said hearing was held at San Juan, Puerto Rico, on March 5, 1945. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Banco Popular de Puerto Rico is a company having its principal office and bank in San Juan, Puerto Rico, and five branch banks in different cities of the Island, including Santurce, Puerto Rico, which

is the only branch involved in this proceeding. It carries on a general banking business including transactions that not only involve the Island of Puerto Rico, but also commerce between Puerto Rico and the Continental United States; and also commerce with various foreign countries. The Company's capitalization is \$1,000,000; its surplus is \$2,000,000; and its deposits are approximately \$45,000,000.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Union de Empleados de Bancos de Puerto Rico, affiliated with the Confederacion General de Trabajadores, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Union, by letter dated October 17, 1944, addressed to the Company's Santurce branch, requested exclusive recognition as the bargaining representative of the employees of that branch. On October 24, 1944, the Union sent a second letter to the Company's head office at San Juan, and enclosed a copy of its first letter of October 17. The Company answered the foregoing letters of the Union by a letter dated October 30, 1944, in which it questioned the appropriateness of the unit sought and the Union's majority status therein.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

Banco Popular de Puerto Rico is a Company operating branch banks all through the island and having its principal office in San Juan, Puerto Rico. The following table sets out the various branches of the Company, the number of employees in each branch (exclusive of directors, executives, and supervisory employees), and the distance between San Juan and each branch.

¹ The Regional Director reported that the Union submitted 23 applications for membership, that there are 30 employees in the unit petitioned for, after excluding the 5 supervisory employees, that the applications were dated between July 29 and August 10, 1944.

Branch or Department:	<i>Number of employees</i>	<i>Approximate distance from San Juan (miles)</i>
Principal Office -----	94	0
Maintenance Dept -----	24	0
Santurce branch -----	30	3
Rio Piedras branch -----	18	6
Caguas branch -----	14	18
Aguadilla branch -----	17	62
Manati branch -----	8	32

The Union requests a unit of the Company's employees in the Santurce branch, which operates at two locations about 3 blocks apart, and about 3 miles from the central office and bank in San Juan. The Company contends that an island-wide unit comprising the main office and all its branches in the island is appropriate, or in the alternative, a unit including only the employees of the Metropolitan Area, that is, San Juan and Santurce, because their operations are closely integrated.

The Company's control is centralized in San Juan. Each bank has a manager who is responsible for public relations, under the direction of a committee in San Juan. No new credits may be established without authority from the main office. All the internal affairs of each branch, including personnel, are handled by an assistant manager who is responsible to a committee of three in San Juan, one of whom is the personnel director. Matters concerning personnel, such as hiring, discharging, and promoting, must receive the approval of San Juan, but have their origin, generally, in the recommendations of the branch assistant managers. Since Santurce is the nearest branch to San Juan, the personnel director is in close touch with its personnel matters. While a complete personnel file is kept in San Juan, each branch has also its own personnel records. When employees are needed for temporary assignments, such temporary personnel is usually supplied to the various branches from San Juan.

The Santurce branch is operated at two locations known as Stop² 17 and 20, respectively. Both are under the same manager and assistant manager, who are stationed at Stop 17. There are 24 employees at Stop 17. The staff of 11 employees at Stop 20 includes a supervisor who is responsible in public relations to the manager at Stop 17 and in internal relations, including personnel, to the assistant manager at Stop 17. All of the bookkeeping for both stops is done at Stop 17, and one of the messengers spends his time, generally, going between the two stops. On occasions, the janitors at these two stops perform their work together. Stop 20 was established when business expanded so much at Stop 17 that space could not be obtained there to accom-

² The term Stop refers to the area around a numbered trolley stop.

modate the operations. It is evident that Stop 17 and Stop 20 operate as a single branch.

The Company has never recognized a labor organization. The Union has sought recognition only at the Santurce branch, which is petitioned for herein.³ The Union has never sought an island-wide unit nor a multi-branch unit of any banking firm. While there have been no Board-directed elections in any bank in Puerto Rico, there have been three consent elections conducted by the Board's Regional Office since August 1944, involving the Union and other banks. Separate elections were held, respectively, at the Santurce branch and at the San Juan branch of Credito y Ahorro Ponceño, which has seven branches, the main one being at Ponce, some 80 miles from San Juan. The Union lost the election at the San Juan branch, but won at the Santurce branch and has entered into a contract covering that branch. This is the only contract covering bank employees in Puerto Rico. The third consent election was conducted in the San Juan branch of the National City Bank of New York, which has five other branches. The Union won that election, but no contract has yet been signed.

As we have seen, self-organization among bank employees in Puerto Rico has been on the basis of separate units for bank branches. The Union has organized only the Santurce branch of the Company to such an extent that it has requested recognition. Although the Company's centralization of control is such that an employer-wide unit might be appropriate at a later stage of self-organization among the employees involved, there is clearly sufficient demarcation among the branches to make each a feasible unit for bargaining purposes. The evidence does not disclose, either, that the Santurce branch is so integrated with the San Juan operations as to require the inclusion of both in a single unit. We find, at the present time, that a bargaining unit limited to the employees at the Santurce branch is appropriate.⁴ This finding does not preclude a later determination in favor of a larger unit in the event of an extension of organization to include employees in all the island.

The parties agree, and we find, that the five employees listed on the pay roll as "officers" at the Santurce branch should be excluded as managerial and supervisory employees. They include the manager, the assistant manager, two assistants to the manager, and the supervisor at Stop 20. The Company disagrees with the Union's request for the exclusion of Andres A. Vissepo. The Company calls Vissepo a head bookkeeper and considers him in charge of the department at

³ However, the Union has carried on some organizational work in the San Juan and Aguadilla branches of the Company.

⁴ *First National Stores, Inc.*, 55 N. L. R. B. 1346; *The Texas Company*, 55 N. L. R. B. 1223; *Westates Petroleum Corporation*, 49 N. L. R. B. 1076; *Charles H. Bacon Company*, 54 N. L. R. B. 703.

Stop 17 which keeps the current accounts of all the customers of the Santurce branch. There are four other employees in this department. The Company contends that Vissepo is only an experienced working leader, whose work is practically all clerical. The Union would exclude Vissepo on the ground that he has supervisory authority. As the record does not disclose that Vissepo has the power to hire and discharge, or the power to recommend hiring, discharging, or the granting of wage increases, or to enforce discipline, we find that he is not a supervisory employee, and we shall include him in the bargaining unit.

We find that all employees of the Company at its Santurce branch (including both Stop 17 and Stop 20), but excluding the officers,⁵ and all or any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Banco Popular de Puerto Rico, Santurce, Puerto Rico, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Twenty-fourth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not

⁵ The five officers include the manager, the assistant manager, two assistants to the manager, and the supervisor at Stop 20.

work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by Union de Empleados de Bancos de Puerto Rico (C. G. T.), for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.