

California Parts & Equipment and Rick L. Woodhouse, Petitioner, and General Teamsters Local Union No. 137

California Parts & Equipment and Al Hartje, Petitioner, and International Association of Machinists and Aerospace Workers, AFL-CIO, Local 1397. Case 20-RD-743 and 20-RD-744

May 16, 1972

DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS FANNING
AND JENKINS

Upon petitions¹ duly filed under Section 9(c) of the National Labor Relations Act, as amended, hearings were held before Hearing Officer John C. Montoya of the National Labor Relations Board. Following the close of the hearings the Regional Director for Region 20 transferred these cases to the Board for decision. Thereafter, all parties filed briefs in both cases.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearings and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this proceeding, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. No question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

The Petitioners filed their petitions on September 20, 1971, and seek separate elections among units of employees² represented by the Unions for some 10 or more years and covered by a series of contracts between the Employer and the Unions. The most recent agreements were executed in 1968 and ran to September 15, 1971, subject to automatic renewal, absent the required 60 days' notice to modify. The Unions served timely notice to modify in June and July 1971, and by September 20, 1971, when the petitions were filed, no

new or modified agreements had been executed. The Unions contend that the petitions, nevertheless, should be dismissed as untimely because the Unions' failure to reach agreement with the Employer and to execute new contracts barring the petitions prior to the expiration of the earlier contracts was occasioned, at least in part, by Executive Order No. 11615, issued August 15, 1971, freezing, *inter alia*, wages.

In its recent decision in *West India Manufacturing & Service Co.*,³ the Board held, in essence, that, where bargaining during the insulated period of a contract was disrupted by the wage-price freeze, petitions filed during the freeze period before the bargaining parties had an uninterrupted 60-day bargaining period free of the wage freeze restraints would be dismissed as untimely. Here, although the Unions served reopening notices, they in fact made no attempt to bargain with the Employer concerning a new or modified contract. However, the record shows that the Unions have since around 1962 bargained with the Redding Automotive Service Association for units of employees such as those they represent at the Employer's establishment and that, although the Employer has never been a member of the Association nor in any manner participated in multiemployer bargaining, it has been the firm practice for the Employer to deal with the Unions on the basis of their Association contracts. Consequently, agreement with the Association has been a precondition, acquiesced in by the Employer, for the Unions' meeting and reaching agreement with the Employer.

It further appears that the most recent contracts between the Unions and the Association had the same term as the Unions' agreements with the Employer, i.e., from the fall of 1968 to September 15, 1971, and that the Unions opened up the Association agreements in the summer of 1971 for the purpose of negotiating modified contracts. Finally, the record discloses that the Unions and Association reached no final agreement concerning modified terms and conditions of employment but rather, on September 9, entered into an interim agreement extending their contracts on a day-to-day basis after their September 15 termination dates, and in effect suspending all further negotiations until "the wage-price freeze is terminated and government directives establish and clarify any limitations and/or restrictions on wage and fringe benefits." Consequently, as the wage-price freeze clearly affected the negotiations between the Unions and the Association, and as an agreement between the parties appears to have historically been a precondition for the fruition of negotiations with this Employer, we find that the rationale of the *West India* case, cited above, has application to the situation before us. Accordingly, for the reasons there set forth, we shall

¹ As the Employer is the same in both cases here and as these cases involve almost identical facts and issues, the Board has consolidated them for purposes of decision.

On May 5, 1972, the Board received from the Petitioner in Case 20-RD-743 a request to withdraw his petition. In view of our decision here the request is denied.

² The Machinists represents a unit of machinists; the Teamsters, a unit of parts, stockroom, and pickup and delivery employees.

³ 195 NLRB No. 203.

dismiss the petitions as untimely. Furthermore, as the pendency of the petitions in this proceeding has blocked negotiations since the expiration of the freeze, we shall, as provided in *West India*, accord the Unions and Employer a new 60-day insulated period for their negotiations, such period to begin running as of the date of issuance of this decision.

ORDER

It is hereby ordered that the petitions filed herein be, and they hereby are, dismissed.