

Filipino Reporter

FAIR, FEARLESS, FACTUAL

February 15, 1975



Blow to minority rights

REUBEN S. SEGURITAN

The current recession has brought into sharp focus the extent to which minority employment rights are to be upheld in the face of inevitable lay-offs. The "knotty" question is presented thus: When a company decides to trim down its work force, should the more senior Whites be protected over the newly-hired minorities even if the effect is to destroy the existing White-minority ratio as set up by a government agency? A Court of Appeals has declared that despite its discriminatory impact, the last-hired-first-fired principle must prevail over the policy of preserving a certain percentage of minority workers in a certain company.

While the new rule seems well-grounded from the viewpoint of traditional labor-management relations, it nevertheless undermines recent civil rights principles achieved in the area of equal employment opportunity. It should be noted that prior to the last few years it was the hiring practice of management to prefer Whites to minority applicants, and this had resulted in a disproportionate majority of Whites occupying company jobs. Thus in 1948, the unemployment rate for Whites was 3.5% as compared to 5.9% for minorities. In 1972, the figure was 5.0% for the Whites and 10.0% for the minorities.

It was because of this unfair disparity that the concept of affirmative action relief was evolved. In plain, the policy called for a positive obligation on the part of the employer to improve the representation of minority workers if these were under-utilized. As a simplified illustration, if a certain locality in

which a company is located has 30% minority population, that company should endeavor to have in its work force the same percentage of minority workers. Generally, the employer is required to set up a program containing goals and timetables agreed towards the correction of the percentage deficiency.

Proponents of the newly-established rule have argued that to give priority to minority rights over seniority would be tantamount to reverse discrimination. This argument flies in the face of existing employment realities. Although the affirmative action program also called for a restructuring of seniority rights, such goal was more theoretical than practical. It is of common knowledge that many of the currently working minorities entered the labor force only recently as a result of the crescendo of voices demanding equal rights. It is therefore not fair to place minorities on the same footing as the Whites on matters of seniority. Rights flowing from seniority, no doubt, should not be disturbed, but only on the premise that everyone had been given equal opportunity to attain it since the start.

There may have been some good points why the court came out with the ruling two weeks ago, but I think the discrimination aspect should have been given more weight. At any rate, chances are that the Supreme Court will eventually pass upon the controversy to settle the conflict once and for all. The case is hard, as an eminent jurist would have put it, but this time hard cases should not make bad laws.