

1977 WL 15377
United States District Court, S.D. Texas.
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
v.
INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION, ET AL.

No. 69-B-3.
|
Mar. 11, 1977.

Attorneys and Law Firms

Abner W. Sibal, General Counsel, William L. Robinson, Associate General Counsel, David W. Zugschwerdt, Assistant General Counsel, and Joseph P. McCormick (Leonard M. Mazor, Trial Attorney), for plaintiff.

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Warner F. Brock and Paul Franzway (Brock, Williams & Boyd), Houston, Tex., for defendants Locals 325, 341, 636, 814, 851, 991, 1029, 1175, 1306, 1330, 1331, 1405, 1406, 1723, 1763, and 1818.

Leonard A. Cruse (Harris, Martin, Carmona, Cruse, Micks & Dunten), Galveston, Tex., for defendant Local 329.

Chris Dixie, Houston, Tex., for defendant Local 1273.

Herman Wright and Sidney Ravkind (Mandel & Wright), Houston, Tex., for defendants Locals 872, 307, 1224, 1367, 1576, 1525, and 1581.

Bryan F. Williams (Royston, Rayzor, Vickery & Williams), Galveston, Tex., for West Gulf Maritime Assn., amicus curiae.

Opinion

REYNALDO G. GARZA, Chief Judge: -

*1 A history of this case through appeal is traced in *Equal Employment Opportunity Commission vs. International*

Longshoremen's Association, 511 F.2d 273, 10 FEP Cases 545 (C.A. 5, 1975), cert. denied, 423 U.S. 994, 11 FEP Cases 930 (1975). Briefly stated, the Government brought suit under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, against numerous International Longshoremen's Association Locals in the port cities in Texas; parent organizations, the association, itself, and the South Atlantic and Gulf Coast District of the association, were also named as Defendants. The Government alleged, and this Court ultimately found, that the locals have been segregated on the basis of race and national origin and that, as a result, equal working opportunities have not been available to all longshoremen. This Court held that the establishment of common hiring halls would satisfy the dictates of Title VII; however, the Fifth Circuit ruled that a further step - merger of locals doing similar work in the same port - was necessary.

The Fifth Circuit remanded the case to this Court to carry out its Order to merge the Locals. Since the time of remand, this Court and all parties have struggled with the numerous and complex problems associated with merger. Much progress has been made, often with the full and voluntary cooperation of the locals which are to be merged. However, difficult obstacles have arisen with some locals in various ports. To more effectively deal with the remaining problems, Masters will be appointed on a port-by-port basis, and, in the larger ports, different Masters will be assigned to the different types of locals.

[ORDER OF REFERENCE]

The Order of Reference being entered on this date appoints Masters to develop and recommend a plan of merger for the Houston deep sea locals, Locals 1273 and 872. See Rule 53, FED. R. CIV. P. It is anticipated that at least some of the areas of inquiry outlined in the Order of Reference will not require examination by the Masters, due to agreements between 1273 and 872. (In addition, after having reviewed the status reports compiled in June and July of 1976 by Mr. Brock, counsel for a number of the Defendant Locals, it is apparent that at least some of the information to be accumulated by the Masters, such as seniority lists, may already be available.) However, a comprehensive Order of Reference was prepared for two reasons. First, it is presently anticipated that a similar

Order will be utilized for all other appointments of Masters in this case. Second, whether the merger is accomplished by voluntary action and agreement or by compulsion (through recommendations by the Masters) - or a combination of both - this Court wishes to have a full and complete merger plan before it for every group of locals which must be merged.

Classification and seniority present some of the foremost problems of merger. As this Court stated at the last hearing on February 10 and 11, 1977, an analysis of the "casuals" issue is in order; Section 3.c of the Order of Reference authorizes the Masters to evaluate the classification situation, with particular attention directed to those persons who do not derive their primary means of livelihood from longshore work. Many locals currently operate with a "casual" classification. Deep Sea and Coastwise Longshore and Cotton Agreement, Page 75. And, as the EEOC has observed, modification of the classification system is not prohibited:

"Institution of or modification to a classification system does not alter any longshoreman's seniority. It merely alters the method by which every longshoreman utilizes the seniority he has earned, [cases cited]." Memorandum in Support of Plaintiff's Motion for Entry of Judgment and Proposed Decree (filed September 26, 1975), Page 13.

Mr. Mazor, attorney for the EEOC, did object to an inquiry into classification schemes as they relate to "part-time" longshoremen. As this Court discerns it, the objection is twofold. First, there is a concern that some men may be penalized, in effect, for minimal past employment which was occasioned by the prior discriminatory division of labor. However, the Order of Reference clearly prohibits, and this Court would not sanction, such a result. Second, the EEOC contends that

classification of the labor pool is an internal union matter which "should not be resolved by this Court through the Master except if the merging locals are unable to agree on hiring hall procedures." EEOC's Reply to Proposals Concerning a Special Master (filed October 12, 1976), Page 2. The Order of Reference specifically provides that a matter need not be addressed and resolved by the Masters *unless* the parties are unable to agree. More than ample time for achieving agreement has been afforded the locals, and, absent presentment of a plan by them to the Masters, the Masters shall address the issue of classification of casuals.

At the conclusion of a chambers conference with attorneys on August 16, 1976, this Court addressed a number of longshoremen in open court. Union members and officials were told then that unless mergers were completed voluntarily, Masters would be appointed; and it was emphasized that "a Master is sometimes a costly proposition...." Transcript of August 16, 1976 Hearing, Page 169. Now that the time for the appointment of the first Masters has arrived, the prospect of significant expenditures by the locals becomes a reality. This Court again urges the locals to seek grounds for compromise. Any aspects of merger which can be agreed upon will lessen the involvement - and thus the expense - of the Masters.

The Clerk will send copies of this Memorandum to counsel for the parties and to the Masters.

All Citations

Not Reported in F.Supp., 1977 WL 15377, 15 Fair Empl.Prac.Cas. (BNA) 462
