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On November 6, 1997, the petitioner even filed a Letter with the Board requesting that the notice of strike be dismissed;[8]the Union had apparently failed to furnish the Regional Branch of the NCMB with a copy of a notice of the meeting where the strike vote was conducted.. 6713 and that the Union was not a legitimate one On October 15, 1997, the petitioner filed a Petition for the Cancellation of the Unions Certificate of Registration with the Department of Labor and Employment (DOLE) on the following grounds:3) Respondent has failed for several years to submit annually its annual financial statements and other documents as required by law.. The decision was affirmed by the Director of the Bureau of Labor Relations on December 29, 1998.. SO ORDERED [12]In obedience to the order of the SOLE, the officers and members of the Union stopped their strike and returned to work.. The NLRC also denied the petitioners petition to declare the strike illegal In resolving the issue of whether the union members held a strike vote on November 10, 1997, the NLRC ruled as follows:We find untenable the Labor Arbiters finding that no actual strike voting took place on November 10, 1997, claiming that this is supported by the affidavit of Erwin Barbacena, the overseer of the parking lot across the hospital, and the sworn statements of nineteen (19) (sic) union members.. Dismissing the petition for certification election filed by the Capitol Medical Center Alliance of Concerned Employees-United Filipino Services Workers for lack of merit; and2.. The petitioner also points out that it adduced documentary evidence in the form of affidavits executed by 17 members of the respondent union which remained un rebutted.

[19]The NLRC ruled that under Section 7, Rule XXII of DOLE Order No 9, Series of 1997, absent a showing that the NCMB decided to supervise the conduct of a secret balloting and informed the union of the said decision, or that any such request was made by any of the parties who would be affected by the secret balloting and to which the NCMB agreed, the respondents were not mandated to furnish the NCMB with such notice before the strike vote was conducted.. They attested to the fact that no secret balloting took place at the said parking lot from 6:00 a.. Consequently, all striking workers are directed to return to work within twenty-four (24) hours from the receipt of this Order and the management to resume normal operations and accept back all striking workers under the same terms and conditions prevailing before the strike.. 00-12-08644-97 In its position paper, the petitioner appended the affidavit of Erwin Barbacena, the overseer of the property across the hospital which was being used as a parking lot, at the corner of Scout Magbanua Street and Panay Avenue, Quezon City.. Declaring respondent Jaime Ibabao, in his capacity as union president, the other union officers, and respondents Ronald Q.. [7]A series of conferences was conducted before the NCMB (National Capital Region), but no agreement was reached.. BARBARA, JR ,respondents D E C I S I O NCALLEJO, SR ,J :This is a petition for review of the Decision[1]of the Court of Appeals (CA) in CA-G.

On November 20, 1997, the Union submitted to the NCMB the minutes[9]of the alleged strike vote purportedly held on November 10, 1997 at the parking lot in front of the petitioners premises, at the corner of Scout Magbanua Street and Panay Avenue, Quezon City.. The petitioner insists that, as gleaned from the affidavits of the 17 union members and that of the overseer, and contrary to the joint affidavit of the officers and some union members, no meeting was held and no secret balloting was conducted on November 10, 1997.. The petitioner contends that the CA erred in affirming the decision of the NLRC which declared that the respondents complied with all the requirements for a lawful strike.. Vera Cruz, who alleged that he was a member of the Union and had discovered that signatures on the Statements of Cash Receipt Over Disbursement submitted by the Union to the DOLE purporting to be his were not his genuine signatures;[15]the affidavits of 17 of its employees, who declared that no formal voting was held by the members of the Union on the said date, were also submitted.. R No 118915 The petition is meritorious We. The Union had to contend with another union the Capitol Medical Center Alliance of Concerned Employees (CMC-ACE) which demanded for a certification election among the rank-and-file employees of the petitioner.. [5]Apparently unaware of the petition, the Union reiterated its proposal for CBA negotiations in a Letter dated October 16, 1997 and suggested the date, time and place of the initial meeting.. ROSARIO URBANO, ROWENA ARILLA, CAPITOL MEDICAL CENTER EMPLOYEES ASSOCIATION-AFW, GREGORIO DEL PRADO, ARIEL ARAJA, and JESUS STA.. [23]The petitioner asserts that the NLRC and the CA erred in holding that the submission of a notice of a strike vote to the Regional Branch of the NCMB as required by Section 7, Rule XXII of the Omnibus Rules Implementing the Labor Code, is merely directory and not mandatory.. [20]The petitioner filed a motion for the reconsideration of the decision, but the

NLRC denied the said motion on September 30, 1999.

The Union likewise prayed for the imposition of appropriate legal sanctions, not limited to contempt and other penalties, against the hospital director/president and other responsible corporate officers for their continuous refusal, in bad faith, to bargain collectively with the Union, to adjudge the same hospital director/president and other corporate officers guilty of unfair labor practices, and for other just, equitable and expeditious reliefs in the premises.. R SP No 57500 and its Resolution denying the motion for reconsideration thereof.. R No 147080 April 26, 2005]CAPITOL MEDICAL CENTER, INC ,petitioner, vs NATIONAL LABOR RELATIONS COMMISSION, JAIME IBABAO, JOSE BALLESTEROS, RONALD CENTENO, NARCISO SARMIENTO, EDUARDO CANAVERAL, SHERLITO DELA CRUZ, SOFRONIO COMANDAO, MARIANO GALICIA, RAMON MOLOD, CARMENCITA SARMIENTO, HELEN MOLOD, ROSA COMANDAO, ANGELITO CUIZON, ALEX MARASIGAN, JESUS CEDRO, ENRICO ROQUE, JAY PERILLA, HELEN MENDOZA, MARY GLADYS GEMPEROSO, NINI BAUTISTA, ELENA MACARUBBO, MUSTIOLA SALVACION DAPITO, ALEXANDER MANABE, MICHAEL EUSTAQUIO, ROSE AZARES, FERNANDO MANZANO, HENRY VERA CRUZ, CHITO MENDOZA, FREDELITA TOMAYAO, ISABEL BRUCAL, MAHALKO LAYACAN, RAINIER MANACSA, KAREN VILLARENTE, FRANCES ACACIO, LAMBERTO CONTI, LORENA BEACH, JUDILAH RAVALO, DEBORAH NAVE, MARILEN CABALQUINTO, EMILIANA RIVERA, MA.. Directing the management of the Capitol Medical Center to negotiate a CBA with the Capitol Medical Center Employees Association-Alliance of Filipino Workers, the certified bargaining agent of the rank-and-file employees.. The Labor Arbiter also held that in light of Article 263(9) of the Labor Code, the respondent Union should have filed a motion for a writ of execution of the resolution of Undersecretary Laguesma which was affirmed by this Court instead of staging a strike.. The respondents appealed the decision to the NLRC which rendered a Decision[18]on June 14, 1999, granting their appeal and reversing the decision of the Labor Arbiter.. [16]In the meantime, on September 30, 1998, the Regional Director of the DOLE rendered a Decision denying the petition for the cancellation of the respondent Unions certificate of registration.

The Union alleged as grounds for the projected strike the following acts of the petitioner: (a) refusal to bargain; (b) coercion on employees; and (c) interference/ restraint to self-organization.. The Antecedents[2]Whether the respondent Capitol Medical Center Employees Association-Alliance of Filipino Workers (the Union, for brevity) was the exclusive bargaining agent of the rank-and-file employees of the petitioner Capitol Medical Center, Inc.. Ordering the above respondents to pay, jointly and severally, petitioner the amount of Two Hundred Thousand Pesos (P200,000.. The Union further reiterated its plea in another Letter[6]dated October 28, 1997, to no avail.. The fallo of the decision reads:1 Declaring as illegal the strike staged by the respondents from November 28, 1997 to December 5, 1997;2.. Instead of filing a motion with the SOLE for the enforcement of the resolutions of Undersecretary Laguesma as affirmed by this Court, the Union filed a Notice of Strike on October 29, 1997 with the National Conciliation and Mediation Board (NCMB), serving a copy thereof to the petitioner.. While it is true that no strike voting took place in the parking lot which he is overseeing, it does not mean that no strike voting ever took place at all because the same was conducted in the parking lot immediately/directly fronting, not across, the hospital building (Annexes 1-J, 1-K to 1-K-6).. Undersecretary Bienvenido E Laguesma rendered a Resolution on November 18, 1994 granting the appeal.. The latter employees also declared that they were not members of any union, and yet were asked to sign documents purporting to be a strike vote attendance and unnumbered strike vote ballots on different dates from November 8 to 11, 1997.. [11]On December 4, 1997, the SOLE issued an Order, assuming jurisdiction over the ongoing labor dispute.. The use of the word shall in the rules, the petitioner avers, indubitably indicates the mandatory nature of the respondent Unions duty to submit the said notice of strike vote.. This digest also appears in jabbulao.com under the category: legal digests Doctrine: demonstrations and work boycotts in violation of dole order after dole assumes jurisdiction constitutes illegal strike.. The petitioner filed the instant petition for review on certiorari under Rule 45 of the Rules of Court on the following ground:THE COURT OF APPEALS GRAVELY ERRED IN UPHOLDING THE NLRC'S FINDING THAT RESPONDENTS COMPLIED WITH THE LEGAL REQUIREMENTS FOR STAGING THE SUBJECT STRIKE.. [22]On September 29, 2000, the CA rendered judgment dismissing the petition and affirming the assailed decision and resolution of the NLRC.. Moreover, parties are hereby directed to submit within 10 days from receipt of this Order proposals and counter-proposals leading to the conclusion of the collective bargaining agreements in compliance with aforementioned Resolution of the Office as affirmed by the Supreme Court.. Thelma N Clemente, the President and Director of the petitioner, the Union requested for a meeting to discuss matters pertaining to a negotiation for a CBA, conformably with the decision of the Court.. According to the Labor Arbiter, the affidavits of the petitioners 17 employees who alleged that no strike vote was taken, and supported by the affidavit of the overseer of the parking lot and the security guards, must prevail as against the minutes of the strike vote presented by the respondents.. For its part, the petitioner filed a petition[13]to declare the strike illegal with the National Labor Relations Commission (NLRC), docketed as

NLRC NCR Case No.. In a parallel development, Labor Arbiter Facundo L Leda rendered a Decision on December 23, 1998 in NLRC NCR Case No.. [4]However, in a Letter to the Union dated October 10, 1997, Dr Clemente rejected the proposed meeting, on her claim that it was a violation of Republic Act No.. The decretal portion of the order reads:WHEREFORE, this Office now assumes jurisdiction over the labor disputes at Capitol Medical Center pursuant to Article 263(g) of the Labor Code, as amended.. [10]On November 28, 1997, the officers and members of the Union staged a strike Subsequently, on December 1, 1997, the Union filed anex partemotion with the DOLE, praying for its assumption of jurisdiction over the dispute.. Centeno, Michael Eustaquio and Henry Vera Cruz to have lost their employment status with petitioner; and3.. [21]The petitioner filed a petition for certiorari with the CA assailing the decision and resolution of the NLRC on the following allegation:PUBLIC RESPONDENT NATIONAL LABOR RELATIONS COMMISSION (NLRC) COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, ACTED CAPRICIOUSLY, AND CONTRAVENED THE LAW AND ESTABLISHED JURISPRUDENCE IN REVERSING THE LABOR ARBITERS DECISION DATED DECEMBER 23, 1998 (ANNEX E) AND IN UPHOLDING THE LEGALITY OF THE STRIKE STAGED BY PRIVATE RESPONDENTS FROM NOVEMBER 28, 1997 TO DECEMBER 5, 1997.. Med-Arbiter Brigida Fadrigon granted the petition, and the matter was appealed to the Secretary of Labor and Employment (SOLE).. Also included were the affidavits of Simon J Tingzon and Reggie B Barawid, the petitioners security guards assigned in front of the hospital premises.. In their position paper, the respondents appended the joint affidavit of the Union president and those members who alleged that they had cast their votes during the strike vote held on November 10, 1997.. [3]The decision of the Court became final and executory Thereafter, in a Letter dated October 3, 1997 addressed to Dr.. 00) by way of damages [17]The Labor Arbiter ruled that no voting had taken place on November 10, 1997; moreover, no notice of such voting was furnished to the NCMB at least twenty-four (24) hours prior to the intended holding of the strike vote.. He, likewise, denied the motion filed by the petitioner and the CMC-ACE The latter thereafter brought the matter to the Court which rendered judgment on February 4, 1997 affirming the resolution of Undersecretary Laguesma, thus:1.. 00-12-08644-97 in favor of the petitioner, and declared the strike staged by the respondents illegal.. had been the bone of contention between the Union and the petitioner The petitioners refusal to negotiate for a collective bargaining agreement (CBA) resulted in a union-led strike on April 15, 1993.. It appears that 178 out of the 300 union members participated therein, and the results were as follows: 156 members voted to strike; 14 members cast negative votes; and eight votes were spoiled.. Further, it is apparent that the nineteen (19) (sic) hospital employees, who recanted their participation in the strike voting, did so involuntarily for fear of loss of employment, considering that their Affidavits are uniform andpro forma(Annexes H-2 to H-19).. The petitioner faults the CA and the NLRC for holding that a meeting for a strike vote was held on the said date by the respondents, despite the fact that the NLRC did not conduct an ocular inspection of the area where the respondents members allegedly held the voting.. Further, parties are directed to cease and desist from committing any act that may exacerbate the situation.. m to 7:00 p m of November 10, 1997 [14]The petitioner also appended the affidavit of Henry V.. The petitioner also posits that the CA and the NLRC erred in reversing the finding of the Labor Arbiter; furthermore, there was no need for the respondent union to stage a strike on November 28, 1997 because it had filed an urgent motion with the DOLE for the enforcement and execution of the decision of this Court in G.. For this reason, respondent has long lost its legal personality as a union 4) Respondent also engaged in a strike which has been declared illegal by the National Labor Relations Commission.. Union officers can be terminated if they participate in illegal strikes

TRANSCRIPTSECOND DIVISION[G. e10c415e6f