101 Phil. 200

[G. R. No. L-10170. April 25, 1957]

WESTERN MINDANAO LUMBER CO., INC., PETITIONER, VS. MINDANAO FEDERATION OF LABOR AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.No. L-9602

REYES, J.B.L., J.:

The Western Mindanao Lumber Co., Inc. petitions for a review of the decision of the Court of industrial Relations in its case No. 618-V, "Mindanao Federation of Labor vs. Western Mindanao Lumber Co., Inc." On May 16, 1952, the said court had, on petition hy the Union, found the company's employees Vicente Manuel and Cirilo Manuel, union members, only partly responsible for the breakage of some company trucks parts, through their negligence in not properly lubricating the machinery of the company's No. 6 truck; but declared that aa the breakage was also due to the bad state of the roads, their dismissal was too severe a punishment, and that sis months lay-off (from Sept. 21. and Oct. 1, 1951, respectively) would be adequate sanction; and decreed that said workers should be reinstated after, suspension, The. C.I.R. also found that the company's dismissal of laborer Hermenegildo (alias Gil) Santos was unjustified, because he had not been guilty of any violation of his duties to the Company, but had merely refused to sign a document incriminating his co-employees, Cirilo and Vicente Manuel; hence, it ordered Santos reinstated with back pay (Petition, Annex A),

On January 5, 1956, a supplementary decision was rendered, denying the Company's counterclaim for P3,000 damages, but authorizing the deduction of P1,706.24 for the loss suffered by it from the total back wages due to Cirilo and Vicente Manuel, and the deduction of certain amounts (subject to future determination) equivalent to their earnings during the period of their lay-off; but reiterating the order to reinstate both laborers (Petition, Annex E) with back pay from the expiration of the six-month suspension.

After the first decision of May 16, 1952, the Company asked this Court for its review (G. R. No. L-6803), but the petition was later voluntarily withdrawn without prejudice, to await the full determination of the issues by the C.I.R., which was done in the supplementary decision

of January 5, 1956.

1. The appellant Company avers that the C.I.R. acquired no jurisdiction over the cases because there was no labor dispute between the respondent Union and the Company that caused a strike or was likely to cause it.

We agree with the respondent that this contention is unmeritorious. The fact that the Union as a body had taken up the dismissals of Cirilo and Vicente Manuel, and of Hermenegildo Santos, meant that the members of the Union had decided upon collective action to vindicate the rights of the three men; and such determination posed the danger of a strike if peaceful remedies should prove unavailing. Clearly it was not incumbent upon the Industrial Court to cross its arms and refuse to act until the strike was actually called and social peace was disrupted; it had the power and the duty to act in order to forestall resort to such drastic remedy as soon as the Union sought its intervention, in accordance with the terms of its collective bargaining agreement with the Company (Annex F).

It may be added that it does not appear that the Company attacked the jurisdiction of the court below prior to the present petition; on the contrary, by dismissing voluntarily the first petition for review (G. R. No. L-6308) to await the Industrial Court's supplemental decision, the Company virtually admitted the jurisdiction it is now attacking.

2. The Company also urges that, having found that Cirilo and Vicente Manuel had been negligent, the C.I.E. had no authority to order their reemployment. While it is true that this Court, in several cases in the past, has set aside orders for the reinstatement of dismissed laborers whom the Industrial Court had found to be remiss in their duties towards their employer, such decision have been predicated upon the Industrial Court's abuse of discretion under the circumstances surrounding each particular case, rather than upon its lack of power to reduce excessive punishments. On the contrary, that power has been repeatedly recognized by us.

Thus, in Destileria Ayala vs. Liga Nacional Obrera, 84 Phil., 280, 47 Off. Gaz. p. 648, we held:

> "The power of the Industrial Court in the settlement of labor cases, to reduce excessive punishments meted out to erring employees is not to he disputed, having been already recognized by this Supreme Court. The only question for us now to determine is whether the reduction of Bautista's penalty in the present

> case constitutes a grave abuse of discretion."

And the holding in the Ayala case was reiterated in Standard Vacuum Oil Co. vs. Katipunan Labor Union, (100 Phil., 804) wherein we held:

> "An employer should not be compelled to continue an employee in the service where a justifiable cause for his discharge exists. But the determination of whether a justifiable cause for removal exists in any given case is a matter that can not be left entirely to the employer. Consequently it is held that the Industrial Court, in the settlement of labor disputes, is empowered to reduce excessive punishments meted out to erring employees. (Tide Water Association Oil Co, vs. Victory Employees and Laborers' Association et al 47 *Off. Gaz*. 2868)."

In the cases invoked by the petitioner Company, the reinstatement of the dismissed workers was disapproved because they were either found guilty of deliberate acts of misfeasance or malfeasance, or else their gross negligence was the sole and exclusive cause of the injury to the employer. In the record before us, however, the findings are that the negligence of the Manuel brothers was only a contributory factor in the breakage of truck parts, since the same was also attributable to the bad condition of the logging road that the Company's truck No. 6 had to traverse. All circumstances considered, we are unable to hold that the Industrial Court abused its discretion in finding that the dismissal was not justified.

3. The decision of the C.I.R. is further attacked on the ground that the evidence does not warrant the finding that laborer Hermenegildo Santos was dismissed without just cause; but it is established doctrine that the findings of fact of the Industrial Court are binding upon us and are not subject to review. Moreover, the mere absence of a formal letter of dismissal does not suffice to destroy the finding that Santos was in fact dismissed from the Company service.

4. That the claimant laborers obtained employment elsewhere is no ground for denying their reinstatement. A dismissed laborer can not be expected to remain idle while his claim is pending adjustment, particularly if he had dependents looking to him for sustenance. Any such provisional employment is but a temporary expedient, resorted to from the necessity rather than choice. It would be against all justice and equity to force a laborer to elect between starvation and loss of reinstatement. The laborer's insistence

upon reemployment is proof that the provisional employment obtained by him is not equivalent, in salary or conditions, to the position that he previously held. The C.I.R., in our opinion, acted correctly in limiting itself to ordering that the amounts earned by the workers during their lay-off should be deducted from the salaries due them from the appellant.

5. Whether the damaged truck parts were worth P3000, as claimed by the appellant, or only P1,706.24 as found by the C.I.R., is a question of fact that depends upon the court's appreciation of the evidence, and as already stated, this Court is bound by the findings of the Industrial Court in this regard.

We find no reversible error in the decision appealed from, and therefore affirm the same, with costs against petitioner-appellant Western Mindanao Lumber Co. So ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Concepcion, Endencia, and *Felix, JJ.*, concur.

Date created: October 13, 2014