

Herma Shipping and Transport Corporation vs. Calvin Jaballa Cordero

Title:

Herma Shipping and Transport Corporation and Herminio S. Esguerra vs. Calvin Jaballa Cordero

Facts:

1. **Employment and Position**:

- **1992**: Calvin Jaballa Cordero was employed as an Able Seaman by Herma Shipping and Transport Corporation (HSTC).

- **Duties**: His main duty included serving as a Helmsman or duty look-out during vessel navigation.

2. **Incident and Investigation**:

- **2015**: HSTC discovered significant losses of oil and petroleum products during M/Tkr Angat's last 12 voyages.

- **January 28, 2016**: HSTC sent a Notice to Explain/Show Cause Memo to five crew members, including Cordero, for alleged violations. Pending investigation, these crew members were placed on preventive suspension.

3. **Cordero's Defense**:

- Cordero denied the allegations, claiming he did not notice any suspicious activities due to his poor eyesight.

4. **Dismissal**:

- **March 8, 2016**: Cordero was dismissed from employment by HSTC after finding his explanation insufficient.

5. **Labor Complaint**:

- Cordero filed a complaint for illegal dismissal, payment of 13th month pay, separation pay, damages, and attorney's fees.

6. **Company's Evidence**:

- HSTC utilized a Four Point Analysis to confirm the oil losses.

- **CCTV Footage**: Showed an unknown boat near M/Tkr Angat and crew members covering the camera for three hours. HSTC argued that Cordero, as Helmsman, should have noticed and reported any irregularities.

Procedural History:

1. **Labor Arbiter**:

- **November 21, 2016**: The Labor Arbiter (LA) found Cordero's dismissal valid due to serious misconduct and breach of trust.

2. **National Labor Relations Commission (NLRC)**:

- **February 28, 2017**: Affirmed LA's decision.

- **April 27, 2017**: Cordero's motion for reconsideration denied.

3. **Court of Appeals (CA)**:

- **April 20, 2018**: Upheld NLRC's decision but ordered HSTC to pay separation pay to Cordero.

- **January 14, 2019**: Both parties' motions for reconsideration denied.

Issues:

1. Whether the CA erred in awarding separation pay to Cordero despite his valid dismissal for a just cause.

2. Whether the CA correctly ruled that despite just cause, the penalty of dismissal was too harsh and Cordero deserved separation pay.

Court's Decision:

Resolution of Issues:

1. **Valid Dismissal**:

- The Supreme Court upheld that Cordero's dismissal for serious misconduct and breach of trust was valid. Hence, his petition was denied for lack of merit.

2. **Separation Pay**:

- **Legal Standard**: Generally, employees dismissed for just cause are not entitled to separation pay.

- **Exception**: Separation pay may be granted as an act of social justice or on equitable grounds, only when dismissal is for causes other than serious misconduct or moral turpitude.

- **Application**: Cordero's offense involved theft and serious misconduct, hence awarding separation pay was not justified. Thus, the CA's award of separation pay was deleted.

Conclusion:

Petition in G.R. No. 244144: Granted, deleting the separation pay.

Petition in G.R. No. 244210: Denied.

Doctrine:

- Employees dismissed for serious misconduct or moral turpitude are not entitled to separation pay.
- Length of service does not mitigate the penalty if the offense involves serious misconduct reflecting disloyalty and moral turpitude.

Class Notes:

- ****Elements of Serious Misconduct****: Act involving malice or wrongful intent, causing damage to the employer and rendering the employee untrustworthy.
- ****Just Cause for Dismissal****: As per Article 282 of the Labor Code - gross and habitual neglect, fraud, or willful breach of trust.
- ****Remedial Measures****: Courts may award separation pay under social justice only for dismissals due to reasons other than serious misconduct.

Statutory Provisions:

- ****Article 282, Labor Code****: Grounds for termination of employment.
- ****Section 7, Rule I, Book VI, Omnibus Rules Implementing the Labor Code****: Separation pay not due on dismissal for just cause.

Historical Background:

This case highlights labor jurisprudence involving disciplinary measures and employer-employee trust. The predominance of social justice in labor disputes often faces challenges when infractions involve serious misconduct, testing the balance between compassion and the integrity of moral conduct within the workforce. The decision reinforces that the principle of social justice does not extend to rewarding serious violators within the employment sphere.