

MANILA RAILROAD COMPANY, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND KAPISANAN NG MGA MANGGAGAWA SA MANILA RAILROAD COMPANY, RESPONDENTS.

G.R. No. L-4616. July 31, 1952

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is a petition by the Manila Railroad Company for a review by writ of certiorari of a decision of the respondent Court of Industrial Relations (CIR) dated October 14, 1950, involving several issues and different demands of employees and laborers of the Manila Railroad Company, belonging to a labor union, one of the respondents herein. Only those portions of the decision questioned and appealed from, will be considered and they will be discussed and decided separately.

1. CLAIM OF THE HEIRS OF TOMAS GUTIERREZ

Tomas Gutierrez, a former employee of the petitioner-appellant died sometime in April, 1945. After his death, his heirs filed a claim with the CIR for the money equivalent of his unused vacation and sick leave. The claim was granted by the respondent court, and the petitioner now questions the propriety and legality of the grant on the ground that the CIR had no jurisdiction to pass upon said claim for the reason that it involved only a money claim and not a labor dispute, so, the action should have been brought in an ordinary courts and that furthermore, this grant was in violation of Sec. 286 of the Revised Administrative Code which provides that accumulated vacation and sick leave shall be forfeited upon separation from the service.

As regards the matter of jurisdiction, when the claim for the money equivalent of the vacation and sick leave of Tomas Gutierrez was denied by the Railroad company with whom it was first filed, and the claimants were dissatisfied with the denial, it became a labor dispute cognizable by the CIR. Furthermore, in the case of Leyte Land Transportation Co., Inc. vs. Leyte Farmers-Laborers Union, 45 O.G. 4862, this Tribunal has already ruled that the Court of industrial Relations has authority to grant employees and laborers vacation and sick leave with pay. In other words, the subject-matter of vacation and sick leave or the demand for payment of the money equivalent thereof comes within the jurisdiction of that court.

As to the propriety or legality of the grant, it would appear that the claim was based not so much on Sec. 286 of the Administrative Code, but rather upon a circular (Exhibit "I") issued by the Manager of the Railroad company relative to the "grant of monetary aid to former employees and/or to the latter's dependents, who could not be reinstated on account of illness or death." Besides, according to the findings of the respondent court "it was a long-standing policy of the railroad company to pay vacation and sick leave duly acquired by its employees and laborers effective upon separation from the service" and it said that that acquired right should be transmitted to the heirs in case of death. Moreover, Sec. 286 of the Administrative Code relied upon by petitioner has been amended

by Republic Act No, 611 which suppresses that part relating to forfeiture of accrued vacation and sick leave upon separation from the service. Instead, the amendment provides for payment thereof upon separation from the service thru no fault of the employee.

This portion of the decision appealed from is therefore affirmed.

2. CLAIM OF PEDRO DE LA CRUZ

Pedro de la Cruz was the incoming freight clerk of the Company in Naga, Camarines Sur on April 11, 1947. On that date, one Yu Eng Siong secured a waybill for 200 sacks of flour; a little later, he secured another waybill for another shipment of 200 sacks of flour, all to be shipped to Naga. Of the 400 sacks of flour only 200 passed thru the office of Pedro de la Cruz before delivery to the consignee. The other 200 sacks of flour were delivered to the consignee without passing thru his office as they should. However, for both consignments or shipments, payment for the freight was made by the consignee, so that the Company suffered no loss. For this alleged irregularity, Pedro de la Cruz was suspended from August 28, 1947 until December 5, 1947. He filed a claim for his salary corresponding to the period of suspension and respondent court granted it. The company on appeal now questions the grant on the theory that Pedro de la Cruz was negligent, and so his suspension was a merited punishment, and that furthermore, the fact that the company suffered no financial loss should not be considered in the disciplinary action taken by it.

In support of its action in granting the claim, the CIR in its decision says that the suspension of Pedro de la Cruz was the result of a misunderstanding; that Pedro was not to blame for the irregularity because the reason why the other shipment of 200 sacks of flour did not pass thru his office was because the station laborers in his office immediately delivered the flour to the consignee without his knowledge and consent.

This declaration and finding of the trial court weighs heavily in favor of his innocence. Moreover, according to Exhibit "O", a "memo for the Actg. Managing Director of the Railroad Co., Mr. Jose Libunao, Superintendent of Transportation, who would appear to have made some investigation of the case, believed that there exist no prima facie evidence to sustain the charge that he is responsible for the apparent loss of 200 sacks of flour covered by and so Superintendent Libunao recommended that Pedro be recalled to the service and that his temporary suspension be regarded as leave with pay.

We find this portion of the decision appealed from, ordering the railroad company to pay the salary of De la Cruz during the whole period of his suspension warranted, but that as recommended by the Superintendent of Transportation, the period of suspension be considered as leave with pay. With this modification, this part of the decision of the lower court is affirmed.

3. CLAIMS OF TOMAS MENDOZA, ALFREDO RAGAS, NESTOR SALAZAR and DEMETRIO AGONCILLO

In the month of September, 1947 Tomas Mendoza was working as assistant mechanic, Demetrio Agoncillo as mechanic, and Nestor Salazar and Alfredo Ragas as tiremen, for the Manila Railroad Co. in the Caloocan electrical shop and garage of the Luzon Bus Line, a subsidiary of the Railroad company, were deposited among others one power generator valued at P200.00 belonging to the Superintendent of the Luzon Bus Line, one box containing carpenter tools belonging to Bonifacio Flores, valued at P250.00 and one battery belonging to a jeep assigned for the use of the purchasing agent, costing P40.00. The power generator was loaned to the Company and was being used in the garage. At about 8:45 p.m. on September 14, 1947, Agoncillo drove bus No. 39 out of the garage with Salazar and Ragas inside the bus, presumably to test its brakes. Tomas Mendoza was then near the entrance or gate of the garage working on the stop light of bus No. 38. As was the custom, Patrolman or guard

Velasquez of the Company stopped bus 39 at the gate to inspect and search it with the use of his flashlight. As he was beginning or about to begin his inspection Mendoza approached and asked him to accompany him to go to another part of the garage to investigate a noise supposedly coming from there. Pat, Velasquez acceding to his suggestion or request, left bus 39 but warned the occupants Including the driver not to leave until he returned and made his inspection. In the company of Mendoza, Pat, Velasquez went to the place indicated but found nothing. When he returned to the gate to make his inspection he found that bus 39 had already left, in violation of his instructions. The following morning the power generator, the box of carpenter tools and the jeep battery, were found missing. For the loss of these articles Mendoza, Ragas, Salazar and Agoncillo after due investigation were held responsible. Tomas Mendoza as the mastermind was summarily dismissed on October 27, 1947, while Ragas, Salazar and Agoncillo were fined P80.00, P81.00 and P20.00, respectively, Mendoza later asked the CIR to order the Company to pay him his salary from the time he was dismissed on October 27, 1947 until August 21, 1948 when he was re-employed as temporary riveter and Salazar, Agoncillo and Ragas petitioned the same Court to order the refund of their fines. The Court of Industrial Relations in its decision appealed from held that there was no evidence under which to hold these four men responsible for the loss of the articles in question because nobody saw them steal said articles and so granted their demands.

After a careful review of the record of the case particularly that referring to this point, we agree with the petitioner that the respondent Court of Industrial Relations not only erred in arriving at its conclusion that these four employees of the company should not be held responsible for the loss of the properties in question, but that it committed a grave abuse of discretion in disregarding and ignoring completely the various investigations conducted by the company over the loss of said properties, investigations and re-investigations made at the request of said four men and wherein they were represented by counsel. There is no allegation or claim that these investigations were not conducted properly or that the finding and decision of the company was illegal or arbitrary. Mr. Sergio Bayan, General Manager of the Railroad company at the time, prepared a long and elaborate report based on the investigations conducted by the company and there is every reason to believe as claimed by him that there was connivance between Mendoza and the three other employees who removed and carried away the generator, carpenter tools and battery from the garage by using the bus No. 39. According to Manager Bayan, because the garage was surrounded by a wall on three sides and the only exit was the gate, it was next to impossible to remove the articles stolen, particularly the power generator except thru the gate and by means of a vehicle; that said articles must have been loaded in bus No. 39 that night, and that to prevent their being discovered by the guard or patrolman, Mendoza through an artifice, distracted the attention of the guard by taking him away from the gate by asking him to investigate a noise on one of the corners of the garage, and that during his absence and despite his instructions to the contrary, the bus was driven away. According to Manager Bayan, in an effort to accord more favorable consideration Mendoza, he investigated his background and his past conduct in relation to his employment in the Company so that if it should turn out that he had a good character and had been loyal to the Company and observed exemplary behaviour, his highly suspicious conduct with regard to the loss of the articles in question might be overlooked. It turned out, however, that in the past, articles and properties of the company had been disappearing, and that the circumstances surrounding their loss pointed to Mendoza as the one most likely to have taken them away; and that furthermore, after the dismissal of Mendoza on October 27, 1947, the loss of articles and properties from the premises of the company ceased.

In support of its finding that Mendoza was not responsible for the loss of the generator, carpenter tools and jeep battery, the CIR said that the Corporate Counsel, convinced of the innocence of Mendoza, did not file any criminal action or any administrative charges. This is hardly correct. The reason said Corporate Counsel did not file any criminal charge against Mendoza was not because he was convinced that Mendoza was innocent but because in his opinion there was not sufficient evidence to support a criminal conviction. This appears in his letter

to the General Manager, Exhibit K. As to the filing of administrative charges, it was not he who files administrative charges but the officials of the company. In fact, said administrative action was taken. Several investigations were conducted resulting in the dismissal of Mendoza and the fining of his companions. To secure conviction in a criminal case, guilt must be established beyond reasonable doubt. In an administrative case, that degree of proof is not necessary. The CIR in exonerating Mendoza and his companions said that no one saw them steal the articles lost. But sometimes, even in criminal cases, circumstantial evidence is competent, even sufficient. This is more so in administrative cases. When a company after due and fair investigation is convinced that an employee is dishonest and disloyal and it has lost confidence in him, said company may not be compelled to retain him in its employ. (*Manila Trading & Supply Co. v. Zulueta et al.*, 69 Phil. 485)

According to Manager Bayan, because of his entreaties, Mendoza was re-employed as a temporary riveter, as an act of generosity on the part of the company, not because it was convinced that he was innocent, or that he deserved to be exonerated. As to Ragas, Salazar and Agoncillo, what we have already said about Mendoza, applies to them and we agree with the result of the administrative action taken by the Company against them. For the foregoing reasons, this part of the decision appealed from ordering the company to pay Mendoza his salary from October 27, 1947 to August 21, 1948 and to refund the fines of P80.00, P81.00 and P20.00 imposed on Ragas, Salazar and Agoncillo, respectively, is reversed.

4. CLAIMS OF ELIODORO BICIERRO, IRINEO ARAGON, FERNANDO BALINGUIT, AND MARCELO HERMOSURA

In the month of August, 1947, Bicierro was a checker, Aragon a night clerk, Balinguit, a receiving clerk and Hermosura, a relief clerk, of the Railroad company. On August 3, 1947, a piano shipped from Ligao, Albay thru the Manila Railroad Co. was received at the Manila station. It arrived in good condition and was received by Bicierro as checker. The piano was covered by a crate. Pursuant to the practice of the company and under the supervision of Bicierro, the crate was raised and removed and the piano was unloaded by the porters and the crate later replaced. When the owner came to claim the piano, he found it damaged, two legs and a small portion of one side having been destroyed. Said owner filed a complaint with the company and the corresponding investigation was conducted resulting in Bicierro, Aragon, Balinguit and Hermosura being fined P100.00 each. From the evidence the respondent court found that only Bicierro may be held liable for the damage to the piano because he was the one present when it arrived and when it was unloaded, the damage evidently having occurred in the process of unloading; that the three other men should not be held responsible because they had nothing to do with the unloading and in fact arrived at the office and commenced work after the piano had been unloaded; and that their only fault if any, was their failure to report the damage, but they claim that they did not notice it. We agree with the respondent Court in holding only Bicierro responsible for the damage, approving the fine imposed upon him and ordering the refund of the fines imposed on Aragon, Balinguit and Hermosura. Tills part of the decision appealed from is therefore affirmed.

5. THE CLAIMS OF DOMICIANO NODADO AND FRANCISCO GARCIA

Nodado and Garcia worked as auditors of the Company, As such they filed claims for overtime pay for services rendered from March 1st to August 15, 1947 for Nodado, and from January 1st to August 15, 1947 for Garcia. These claims were turned down by the Company on the ground that the overtime services were rendered in violation of the rules and regulations of the company as well as the circular issued to the effect that before overtime work may be performed with pay, the approval of the corresponding department head should be secured. The respondent CIR correctly found that the circular referred to was issued and promulgated after the overtime work had been rendered by Nodado and Garcia. Furthermore, it has been shown that it was necessary for the two men to work overtime in order to audit all the passenger trains assigned to them, sometimes working from 4:20 in

the morning until 8:45 in the evening in order to follow the schedule, and that they had been instructed to do so by their immediate superior, District Auditor P. Meneses. Under the circumstances the respondent Court was justified in ordering the Company to pay for this overtime work in the amounts of 863.58 and 648.09 to Nodado and Garcia, respectively.

6. THE CLAIM OF FELIX BASILIO

Felix Basilio was employed as storekeeper in Baguio by the Benguet Auto Line, a subsidiary of the Manila Railroad Co. His claim for overtime work was denied by the Company but it was approved by the respondent Court of Industrial Relations. There is no dispute as to Basilio having performed overtime work which benefited the Company. At the time he rendered said service the Company was in that particular line short-handed and Basilio had to do the work of several men. His chief Mr. Casiano Rivera, Superintendent of the Benguet Auto Line, asked him to render said service and later Mr. Rivera recommended that payment of this overtime be made. Said recommendation was approved by Mr. Sergio Bayan, General Manager of the Railroad company. It was also approved by Mr. Rabaya, the corresponding department head. To us, it is therefore clear that the order of the industrial court on the company to pay Basilio for this overtime work was fully justified. For this reason, this portion of the decision is hereby affirmed.

7. CLAIM OF SANTOS UMALI

Umali worked as a conductor on the Luzon Bus Line, a subsidiary of the Company. In connection with his work as conductor he had to make long trips from Manila to Laguna and Tayabas and to perform his duties, he had to work sometimes more than eight hours a day. For this overtime work he rendered from February 2, 1947 to June 30, 1949, he claims P127.65. The Company refused to pay for this overtime work on the ground that it was rendered in violation of Circular No. 251 requiring previous authority from the corresponding department head and that it was not supported by supporting papers. We agree with the respondent Court that the overtime work was actually performed by Umali despite the non-conformity of the Company's timekeeper. Umali presented his corresponding slips to support his claim. The trial court believed him. As conductor he had to perform his duties during the trip and if said trip lasted more than eight hours because of unavoidable delays, engine or tire trouble, etc., he could not just quit work upon the expiration of the 8-hour period unless there was a substitute ready to take his place. Under the circumstances, and because of the small amount involved, we have no hesitation in affirming as we hereby affirm this part of the decision of the Court of Industrial Relations.

8. DEMAND OF THE ADDITIONAL EMPLOYEES FOR PERMANENT APPOINTMENTS

To work on specific projects of the Railroad Company such as the rehabilitation of motor cars, trailers and passenger coaches which were damaged during the war, laborers were employed on a temporary basis. They were given to understand that their employment would cease upon termination of the project upon which they were working. Some of these projects lasted over a year. However, some of these temporary employees because the project upon which they were working terminated or because work thereon had to stop for lack of materials and for other reasons, were assigned to another work directly connected with the promotion of the business of the Company. All these employees demanded that they be made permanent after rendering six months service. The respondent Court in a majority opinion granted the demand and directed the Company to appoint permanently all employees who have rendered at least six months continuous and efficient service for ordinary laborers and twelve months for skilled laborers, provided that the service rendered was loyal and efficient. The Company is appealing from this part of the decision.

The record of the case fully supports the stand taken by Judge Juan L. Lanting in his dissent from the majority or

rather from the majority resolution in banc denying the company's motion for reconsideration. It turns out that this same demand for permanent appointment of additional employees had already been presented and considered by the Court of Industrial Relations in case No. 270-V, Demand No. 11 between the same parties. The original decision of the trial court on that point dated February 10, 1950, reads thus:

"In the case at bar, it is admitted by respondent Company that some of the workers have been assigned to departments other than their original assignments — a mute evidence that the Company intends to retain them as such permanent employees. Insofar as these workers are concerned, therefore, the Court finds them no longer as temporary employees but as permanent workers. With respect to the rest if really the company has no more work for them, they may be dismissed, considering that they are just temporary workers."

The above ruling was clarified in a subsequent order of the same court dated September 8, 1950, reading as follows:

"That the so-called 'additional employees' who worked on definite projects such as rehabilitation of motor cars, motor car trailers, and passenger couches which were damaged during the war, and who were retained and transferred to departments other than their original assignments but directly connected with promotion of its regular business, become permanent employees six (6) months after such retentions and transfers; but those who were retained in their original assignments in the rehabilitation projects regardless of the length of service remained to be temporary. Those of the latter category, the temporary employees, are 'the rest' referred to in the decision."

As Judge Lanting points out, the previous decision, both original and as clarified, is wholly inconsistent with the present decision on this point in that the first decision which has already become final distinguishes between temporary employees who have been re-assigned to other work more or less permanent in nature and those employees who remained in their original assignment or on projects of a temporary character. In the present decision the distinction is ignored regardless of the kind of work in which the employees were assigned, whether temporary or permanent and despite the fact that in the temporary projects the employees were given to understand that their employment would cease upon completion of the project. The decision in case No. 270-V between the same parties dated February 10, 1950, clarified by the order of September 8, 1950, besides being more, reasonable and fair, has become final and should stand. For this reason, this part of the decision appealed from ordering the company to give permanent appointment to all temporary employees who rendered at least six months for ordinary laborers and twelve months for skilled laborers is reversed.

In view of the foregoing, the decision appealed from is hereby disposed of in the manner above stated and ruled upon in detail. No costs.

Paras, Bengzon, Padilla, Tuason, Bautista Angelo, and Labrador, JJ., concur.

Faria, Reyes, and Jugo, JJ., did not take part.

Pablo, J., took no part.

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