

PHILIPPINE EDUCATION CO., INC., PETITIONERS, VS. UNION OF PHILIPPINE EDUCATION EMPLOYEES (NLU) AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-13778. April 29, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

The Philippine Education Company, Inc. is appealing the order of the Court of Industrial Relations, dated February 7, 1958, directing it to reinstate its former employee, Ernesto Carpio, to his former or equivalent position, without backpay, and from the resolution of the same court in banc, dated March 22, 1958, denying the company's motion for reconsideration.

Ernesto Carpio and other employees of the company, members of the Union of Philippine Education Employees (NLU) joined a strike staged on January 16, 1953. After the labor dispute was settled, the Industrial Court ordered the reinstatement of the strikers, including Carpio. The company, however, opposed the reinstatement of Carpio for the reason that a criminal complaint had been filed against him in the Municipal Court of Manila for theft of magazines allegedly belonging to the company. He was convicted and sentenced to two months and one day of arresto mayor. On appeal to the Court of First Instance, Carpio was acquitted on the ground of reasonable doubt.

The question of Carpio's reinstatement was heard by the Industrial Court where the parties submitted as evidence the transcript of the stenographic notes taken during the hearing in the criminal case before the Court of First Instance of Manila, the exhibits presented in said case, as well as the decisions of the Municipal Court convicting him, and that of the Court of First Instance acquitting him, or rather dismissing the case against him on reasonable doubt. After said hearing, the Industrial Court agreed with the finding of the Court of First Instance that the offense had not been proven beyond reasonable doubt and held that Carpio's acquittal entitled him to reinstatement, though without backpay.

We have examined the aforementioned evidence, and we are inclined to agree with the Municipal Court that Carpio's guilt had been duly established. At least, the preponderance of evidence was against his innocence.

The question for determination is whether the acquittal of an employee, specially on the ground of reasonable doubt, in a criminal case for theft involving articles and merchandise belonging to his employer, entitles said employee to reinstatement.

In the case of *National Labor Organization of Employees and Laborers vs. Court of Industrial Relations*, 95 Phil., 727; 55 Off. Gaz. (9) 4219, we said:

"* * * the acquittal of an employee in a criminal case is no bar to the Court of Industrial Relations, after proper hearing, finding the same employee guilty of facts inimical to the interests of his employer and justifying loss of confidence in him by said employer, thereby warranting hi a dismissal "or the refusal of the Company to reinstate him. The reason for this is not difficult to see. The evidence required by law to establish guilt and to

warrant conviction in a criminal case substantially differs from the evidence necessary to establish responsibility or liability in a civil or non-criminal case. The difference is in the amount and weight of evidence and also in degree. In a criminal case, the evidence or proof must be beyond reasonable doubt while in a civil or non-criminal case it is merely preponderance of evidence. In further support of this principle we may refer to Art. 29 of the New Civil Code (Rep. Act 386) which provides that when the accused in a criminal case is acquitted on the ground of reasonable doubt a civil action for damages for the same act or omission may be instituted where only a preponderance of evidence is necessary to establish liability. From all this it is clear that the Court of Industrial Relations was justified in denying the petition of Rivas and Tolentino for reinstatement in the cement company, because of their illegal possession of hand grenades intended by them for purposes of sabotage in connection with the strike on March 16, 1952."

Then in the case of National Labor Union vs. Standard Vacuum Oil Company, 73 Phil., 279, the City Fiscal refused to prosecute two employees charged with theft for lack of evidence and yet this Tribunal upheld their dismissal from the employer company on the ground that their employer had ample reason to distrust them.

The relation of employer and employee, specially where the employee has access to the employer's property in the form of articles and merchandise for sale, necessarily involves trust and confidence. If said merchandise are lost and said loss is reasonably attributed to said employee, and he is charged with theft, even if he is acquitted of the charge on reasonable doubt, when the employer has lost its confidence in him, it would be highly unfair to require said employer to continue employing him or to reinstate him, for in that case, the former might find it necessary for its protection to employ another person to watch and keep an eye on him. In the present case, Carpio was refused reinstatement not because of any union affiliation or activity or because the company has been guilty of any unfair labor practice. As already stated, Carpio was convicted in the Municipal Court and although he was acquitted on reasonable doubt in the Court of First Instance, the company had ample reason to distrust him. Under the circumstances, we cannot in conscience require the company to reemploy or reinstate him.

In view of the foregoing, the appealed orders of the Industrial Court of February 7, 1958 and March 22, 1958 are hereby reversed. No costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Barrera, and Gutierrez David, JJ., concur.

Padilla, J., took no part.

Concepcion, J., reserved his vote.

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