MA. STELLA G. LEGASPI AND LIBERTINE G. TRONCOSO, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION (SEVENTH DIVISION), VENTURESLINK INTERNATIONAL, INC. (REPRESENTED BY ITS PR...

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

This is a Petition for Certiorari under Rule 65 of the Rules of Court assailing the Decision[1] dated October 28, 2011 and the Resolution[2] dated December 29, 2011, all issued by the respondent National Labor Relations Commission in NLRC Case No. VAC-06-000440-2011.

Factual and Procedural Antecedents

This petition stems from a case for illegal dismissal filed by the petitioners Ma. Stella G. Legaspi and Libertine G. Troncoso (hereafter referred to as Legaspi and Troncoso for brevity) against the private respondent Ventureslink International, Inc., Petronilo Mercado and Erickson Mar Ravelo (hereafter referred to as Ventureslink for brevity).

Petitioners allege that private respondent Ventureslink is a marketing, human resource and service provider. Ventureslink is represented by its CEO and President, Petronilo Mercado, in the employment contract signed between the company and petitioners Legaspi and Troncoso. Ventureslink was contracted by Smartmatic-TIM to train and supply supervisors and technicians as support personnel during the 2010 Automated Election. The private respondent Erickson Ravelo is the National Operations Manager of respondent company and was the one who signed the termination notice of Legaspi and Troncoso.

Petitioners were employed as Technical Training Consultants tasked to train the supervisors and technicians who will be deployed by Smartmatic-TIM as support personnel during election day. To qualify as trainer, one has to be Smartmatic-certified, and to be certified by Smartmatic, one has to pass the written examination on knowledge of the PCOS machines and most importantly, the simulation of actual training.

Sometime in January 2010, petitioners went to Manila to train with Smartmatic-TIM on how to operate the Precinct Count Optical Scanner (PCOS) machine that will be used in the May 10, 2010 election. In the post-evaluation after the training, both Legaspi and Troncoso passed with flying colors

Thereafter, the petitioners and the trainers were given an orientation by respondent Ventureslink, and were made to sign a Technical Training Consultant Agreement. During the orientation, petitioners were informed that the contract will take effect from the time actual training starts in the area of their assignment until the completion of the project. In a circular dated January 30, 2010 addressed to the trainers sent through email, the period of the project was from February 1, 2010 and will remain in full force and effect until the completion of the training activity.

During the duration of the employment, petitioners dutifully complied with all the requirements of respondent company. They were the earliest to report at the training venue to start the training and had an almost complete

attendance requirement of 12 trainees per day. Petitioners also submitted reports punctually. During the first four days when Ventureslink was short of two trainers, petitioners even took it upon themselves to handle the training in their assigned training rooms single-handedly until the additional trainers arrived, without asking for any additional compensation.

It came, therefore, as a big surprise, when in the afternoon of February 13, 2010, the Lead Trainer, Stella A. Tipanan, relayed respondent Ravelo's instruction to terminate Legaspi and Troncoso effective February 15, 2010. Aware that their Agreement with respondent company contained a clause on abandonment which will hold them liable for damages if they leave their posts, petitioners opted to wait for the written notice of termination.

In the morning of February 17, 2010, a notice of termination signed by respondent Ravelo was served upon complainants by Cresencio Dionio III and Gary Trespeces, the same persons who were sent by Ventureslink to replace the petitioners.

The termination was effective immediately, in violation of the Agreement which provided for a 15-day notice prior to termination. The notice did not also provide for any reason for the termination, again, in violation of the Agreement.

On the other hand, Ventureslink states that it is one of the service providers engaged by Smartmatic-TIM Corporation. The latter won the bidding conducted by the Commission on Elections for the purpose of fully automating the recently concluded May 2010 elections.

Ventureslink's contract with Smartmatic was merely for a limited or fixed period since it is tied solely to the May 10, 2010 elections.

Under the contract with Smartmatic, Ventureslink was mandated to provide and handle the technical training of PCOS Supervisors, CCS Technicians and PCOS Technicians nationwide. Accordingly, Ventureslink is in charge of training the required number of manpower by Smartmatic who shall be deployed to the different regions of the country anent the implementation of the first fully automated elections in Philippine history.

Pursuant to its contract with Smartmatic, Ventureslink engaged the services of several Technical Training Consultants, which included Legaspi and Troncoso. Petitioners rendered service from February 1, 2010 until February 15, 2010. Ventureslink stress that these Technical Consultants were engaged for the sole and limited purpose of providing assistance to Ventureslink in connection with the training of the required manpower for the 2010 automated election.

The engagement by Ventureslink of Technical Training consultants was for a limited duration of only 6 weeks since this is the maximum period imposed by Smartmatic on Ventureslink to complete the training of the required manpower.

These Technical Consultants are paid on a weekly basis at the rate of P1,000.00 per day, plus a pier diem of P200.00, or a total of P1,200.00 per day.

As a matter of procedure and owing Ventureslink's accounting system, the release of the payments for services rendered by Technical Training Consultants for the week is done the following week, provided, these consultants are able to comply with their documentary deliverables to Ventureslink such as the submission of their trainer's report and SMS attendance.

Unfortunately, petitioners, who rendered services for a period of only two weeks were too impatient with Ventureslink's payment protocol. Complainants started to begrudge the delay in the release of their checks by bad-mouthing Ventureslink before their fellow Technical Training Consultants and to the rest of the community.

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To make matters worse, petitioners, at one point, even threatened Ventureslink officers with their intention of going to the media to report their so-called angst against the company in order to ruin its name and reputation.

Notwithstanding the explanation given by Ventureslink and despite receipt of payment for their services, petitioners continued with their untoward and unjustified behavior, which were already inimical to the interest of Ventureslink as they could cause a disruption to the operations of Ventureslink.

In view of the irrational and unjustified behavior of petitioners, Ventureslink was constrained to terminate their engagement on February 15, 2010.

On February 18, 2010, petitioners Legaspi and Troncoso filed a complaint for illegal dismissal before the Labor Arbiter in Iloilo City.

On December 3, 2010, the Labor Arbiter rendered a Decision in favor of petitioners. In its ruling, the Labor Arbiter found Ventureslink liable for failure to observe the procedural requirements in the termination of Legaspi and Troncoso. The dispositive portion of the Labor Arbiter's Decision is hereunder quoted as follows:

> "WHEREFORE, premises considered, We render judgment holding Ventureslink International Incorporated liable to complainants Ma. Stella G. Legaspi and Libertine G. Troncoso in the aggregate sum of Php139,920.00, comprising the latter's unexpired portion of the contract, nominal damages for failure to comply with procedural due process and attorney's fees and direct said respondent to deposit the foregoing sum with the Cashier of this Sub-Regional Arbitration Branch within ten (10) days from receipt of this Decision.
>
> All other claims are dismissed for lack of merit.
>
> SO ORDERED."[3]

Dissatisfied with the Labor Arbiter's ruling, the private respondent Ventureslink appealed before the National Labor Relations Commission Seventh Division, which, in turn, reversed the Labor Arbiter's ruling. The respondent NLRC ruled that there was no illegal dismissal since Legaspi's and Troncoso's "improper behavior or perverse attitude in dealing with the alleged delay in the compensation of their services is a lawful ground for their dismissal from service.[4]" Thus, on October 28, 2011, the NLRC rendered the assailed Decision, the dispositive portion of which, states:

> "WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE and a NEW ONE ENTERED declaring that complainants were validly terminated from employment. However, for failure to observe procedural due process, respondent Ventureslink International, Inc. is hereby ordered to pay each complainant the amount of P20,000.00 as nominal damages.
>
> SO ORDERED."[5]

Legaspi and Troncoso filed a Motion for Reconsideration which was denied by the public respondent NLRC in its Resolution dated December 29, 2011[6]. Hence, this petition.

On April 25, 2012[7], this Court dismissed this case due to procedural infirmities found in the petition. The petition was subsequently reinstated in a Resolution dated March 19, 2013[8] following the timely filing of a Motion for Reconsideration[9] by petitioners Legaspi and Troncoso.

The private respondents did not file their comment to the petition, despite notice of a Resolution requiring them to submit the same.[10] This case was declared submitted for decision on March 26, 2014.[11]

Argument for the Petitioners

Legaspi and Troncoso now come before this Court to seek the nullification of the assailed NLRC Decision and

raise the following grounds in their petition:

- That the NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction when it reversed and set aside the decision of the Honorable Labor Arbiter finding the termination of the petitioner illegal;

- That the respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in finding that there was sufficient proof to establish the fact of petitioners' improper behavior and perverse attitude to warrant their dismissal.

Petitioners contend that the NLRC's findings that Legaspi's and Troncoso's “improper behavior or perverse attitude in dealing with the alleged delay in the compensation of their service is a lawful ground for their dismissal from service” is not supported by the evidence on record. In fact, the sworn statements submitted by Ventureslink does not specify the acts allegedly committed and the words allegedly spoken by Legaspi and Troncoso against their employer that would tend to ruin the reputation of the latter.

Moreover, a perusal of the sworn statements submitted by Ventureslink would show that – (1) the affidavit of Cresencio C. Diono was not notarized, hence, it can not be considered as a “sworn statement”; and, (2) the sworn statement of Erickson Mar Ravelo is hearsay and self-serving. That would leave only the sworn statements of Regina Biazon as admissible evidence for Ventureslink as against the sworn statement of petitioners' witness, Stella Tipanan, who happened to be the lead trainor of the respondent company. Between these two witnesses, the sworn testimony of Stella Tipanan should have been given more credence. Petitioners argue that Tipanan stood to gain nothing by making such statements tending to favor the position of herein petitioners Legaspi and Troncoso.

Petitioners argue that the burden of proof to show that validity of an employee's dismissal rests upon the employer. If doubt exists between the evidence presented by the employer and the employee, the scales of justice must be tilted in favor of the latter.

RULING OF THIS COURT

The resolution of this petition requires a full review of the factual findings of the respondent NLRC. More specifically, whether or not there exists on record sufficient proof to establish the fact of petitioners' improper behavior and perverse attitude to warrant their dismissal.

This court's power to 'look into the records of the case and re-examine the questioned findings of the respondent NLRC has been articulated by the Supreme Court in a long line of cases including Oriental Petroleum vs. Fuentes, et. al.,[12] viz:

> “Ordinarily in certiorari proceedings, judicial review does not go far as to examine and assess the evidence of the parties and to weigh the probative value thereof. However, in St. Martin Funeral Homes v. NLRC, supra, it was held that the special civil action of certiorari is the mode of judicial review of the decisions of the NLRC either by this Court or the Court of Appeals, although the latter court is the appropriate forum for seeking the relief desired in strict observance of the doctrine on the hierarchy of courts and that, in the exercise of its power, the Court of Appeals can review the factual findings or the legal conclusions of the NLRC.
>
> The Court of Appeals in this case, therefore, cannot be faulted for making a full review of the factual findings of the NLRC. Whether it correctly disregarded these findings and reversed the resultant decision is another matter which we will now proceed to review.”[13]

In PLDT vs. Imperial,[14] the Supreme Court further expounded that –

> “1) The findings of facts of the Labor Arbiter and the NLRC are subject to judicial review.

> The exercise of the power of judicial review is mandated under Section 1, Article VIII of the Constitution, which states:
>
> Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government.

The Court of Appeals, in view of its expanded jurisdiction over labor cases elevated to it through a petition for certiorari such as in this case, may look into the records of the case and re-examine the questioned findings if it considers the same to be necessary to arrive at a just decision.

. . . ever since appeals from the NLRC to the Supreme Court were eliminated, the legislative intendment was that the special civil action of certiorari was and still is the proper judicial review of decisions of the NLRC.

While we do not wish to intrude into the Congressional sphere on the matter of the wisdom of a law, on this score we add the further observation that there is a growing number of labor cases being elevated to this Court, which, not being a trier of fact, has at times been constrained to remand the case to the NLRC for resolution of unclear or ambiguous factual findings; that the Court of Appeals is procedurally equipped for that purpose, aside from the increased number of its component divisions; and that there is undeniably an imperative need for expeditious action on labor cases as a major aspect of constitutional protection to labor. Therefore all references in the amended Section 9 of B.P. No. 129 to supposed appeals from the NLRC to the Supreme Court are interpreted and hereby declared to mean and refer to petitions for certiorari under Rule 65.

Further, when the circumstances so warrant, the Court of Appeals can disregard the factual findings of the NLRC. While as a rule, factual findings of agencies exercising quasi-judicial functions such as the NLRC are accorded not only respect but even finality, and that judicial review of labor cases does not go far as to evaluate the sufficiency of evidence on which the labor officials' findings rest; more so when both the labor arbiter and the NLRC share the same findings, such as the present case, the Court cannot affirm the decision of the NLRC when its findings of fact on which the conclusion was based are not supported by substantial evidence. By substantial evidence, we mean the amount of relevant evidence which a reasonable mind might accept as adequate to justify the conclusion.

Based on the foregoing, for want of substantial basis, in fact or in law, the factual findings of an administrative agency, such as the NLRC, cannot be given a stamp of finality and conclusiveness normally accorded to it, as even decisions of administrative agencies which are declared 'final' by law are not exempt form judicial review when so warranted. Contrary to petitioner's assertion, therefore, the Court of Appeals, under the circumstances, may review the findings of fact made by the Labor Arbiter and the NLRC. Thus, this Court sees no error on the part of the Court Appeals when it made a new determination of the case and, upon this, reversed the ruling of the NLRC."

Similarly, in the recent case of Prince Transport vs. Garcia,[15] the Supreme Court held:

> "The power of the CA to review NLRC decisions via a petition for certiorari under Rule 65 of the Rules of Court has been settled as early as this Court's decision in St. Martin Funeral Homes v. NLRC. In said case, the Court held that the proper vehicle for such review is a special civil action for certiorari under Rule 65 of the said Rules, and that the case should be filed with the CA in strict observance of the doctrine of hierarchy of courts. Moreover, it is already settled that under Section 9 of Batas Pambansa Blg. 129, as amended by Republic Act No. 7902, the CA — pursuant to the exercise of its original jurisdiction over petitions for certiorari — is specifically given the power to pass upon the evidence, if and when necessary, to resolve factual issues. Section 9 clearly states:

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> xxx xxx xxx
> The Court of Appeals shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. . . .

However, equally settled is the rule that factual findings of labor officials, who are deemed to have acquired expertise in matters within their jurisdiction, are generally accorded not only respect but even finality by the courts when supported by substantial evidence, i.e., the amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion. But these findings are not infallible. When there is a showing that they were arrived at arbitrarily or in disregard of the evidence on record, they may be examined by the courts. The CA can grant the petition for certiorari if it finds that the NLRC, in its assailed decision or resolution, made a factual finding not supported by substantial evidence. It is within the jurisdiction of the CA, whose jurisdiction over labor cases has been expanded to review the findings of the NLRC.

In this case, the NLRC sustained the factual findings of the Labor Arbiter. Thus, these findings are generally binding on the appellate court, unless there was a showing that they were arrived at arbitrarily or in disregard of the evidence on record. In respondents' petition for certiorari with the CA, these factual findings were reexamined and reversed by the appellate court on the ground that they were not in accord with credible evidence presented in this case. To determine if the CA's reexamination of factual findings and reversal of the NLRC decision are proper and with sufficient basis, it is incumbent upon this Court to make its own evaluation of the evidence on record."

Going to the substantive merits of this case, this Court needs to resolve whether or not the petitioners' acts (1) urging their fellow trainers to sue Ventureslink for the delay in the release of salaries; and (2) exposing the delay in the release of salaries to the media, constitute just cause/s for the termination of their employment with respondent company.

Article 282 of the Labor Code enumerates the causes by which the employer may validly terminate the employment of the employee, viz:

> Article 282.Termination by employer. - An employer may terminate an employment for any of the following causes:
> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
> (b) Gross and habitual neglect by the employee of his duties;
> (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;
> (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representatives; and
> (e) Other causes analogous to the foregoing.

The respondent NLRC ruled that "complainants' improper behavior or perverse attitude in dealing with alleged delay in the compensation of their services is a lawful ground for their dismissal from service."

The petitioners contend that the NLRC should have given more weight to the sworn statement of Stella A. Tipanan, a Ventureslink lead trainer, who narrated that neither Legaspi nor Troncoso bad-mouthed the respondent company and that it was in fact the petitioners who discouraged the other trainers who had planned on abandoning their work due to the delay in the release of salaries, from abandoning their posts.[16]

However, even if this Court, were to disregard the Tipanan affidavit, a perusal of the sworn statements of Regina Banzon[17], Cresenciano C. Dionio III[18] and Erickson Mar Ravelo[19], all submitted by Ventureslink, would

show that the petitioners Legaspi and Troncoso merely “told their co-workers to sue the company and demand that their salary be given on time”[20] and that the delays in the release of salaries “be reported to the media for its proper exposure and disposition”[21]. Such utterances, if true, can hardly be considered a just cause for the termination of the petitioners Legaspi and Troncoso.

This Court finds nothing repugnant in the petitioners' act of (1) urging their fellow trainers to sue Ventureslink for the delay in the release of salaries; and (2) exposing the delay in the release of salaries to the media. Employees such as Legaspi and Troncoso, are well within their right to seek redress for the delay in the release of salaries already earned and not be penalized therefor, especially since petitioners herein, even though employed by Ventureslink, still enjoys the constitutionally protected freedom to express one’s views without violating the rights of third parties.

Further, it must be pointed out that while Ventureslink repeatedly alleged that Legaspi and Troncoso smeared the company's reputation by bad-mouthing the latter, the affidavits of Banzon, Dionio and Ravelo are bereft of any specific circumstance to show how, in what manner, and the specific statements supposedly uttered by Legaspi and Troncoso that would have convinced this Court that petitioners had indeed committed acts inimical to the interest of the respondent company which would have justified their termination from work. It is a principle long established by jurisprudence that in illegal dismissal cases, the burden is on the employer to prove the validity of the employee's termination.

> “In termination disputes, the burden of proving that an employee had been dismissed for a lawful cause or that the exacting procedural requirements under the Labor Code had been complied with lies with the employer. Where there is no showing of a clear, valid and legal cause for termination of employment, the law considers the case a matter of illegal dismissal.”[22]

Even if petitioners' actuation may be properly appreciated as one inimical to the interest of the employer, still, the penalty of dismissal is too harsh. There must be reasonable proportionality between, on the one hand, the infraction committed by the employee and, on the other hand, the penalty imposed therefor.[23]

As correctly held by the Labor Arbiter, the petitioners herein are fixed-term employees, and as such, enjoy security of tenure for the duration of their contract with Ventureslink and cannot be dismissed unless for just cause and after due notice. The termination of petitioners’ employment not being for any of the just or authorized causes, it constitutes illegal dismissal.

WHEREFORE the petition is hereby GRANTED. The assailed Decision dated October 28, 2011 and Resolution dated December 29, 2011 both issued by the public respondent National Labor Relations Commission Seventh Division in NLRC Case No. VAC-06-000440-2011 are hereby ANNULLED and SET ASIDE. The Decision dated December 3, 2010 rendered by the Labor Arbiter[24] in SRAB Case No. 06-02-500-56-10 is hereby RE-INSTATED.

SO ORDERED.

Maxino, P.A.A., and Francisco, R.C., JJ., concur.

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[1] Pages 24-37, rollo.

[2] Pages 38-40, rollo.

[3] See Labor Arbiter's Decision dated September 20, 2010, pp. 99-103, rollo.

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[4] See page 12 of the assailed NLRC Decision dated October 28, 2011, page 35 of rollo.

[5] See Decision dated February 28, 2011, pp. 54-62, rollo.

[6] See Resolution dated December 29, 2011, pp. 38-40, rollo.

[7] Pages 74-75, rollo.

[8] Pages 198-199, rollo.

[9] Pages 78-86, rollo.

[10] See verification dated August 13, 2013, back of page 202, rollo.

[11] Page 203, rollo.

[12] Oriental Petroleum and Minerals Corporation vs. Marciano V. Fuentes, et. al., G.R. No. 151818, 14 October 2005.

[13] Ibid.

[14] Philippine Long Distance Telephone Company, Inc. vs. Homer Imperial, G.R. No. 149379, 15 June 2006.

[15] Prince Transport, Inc., et. al. vs. Diosdado Garcia, et.al., G.R. No. 167291, 12 January 2011. Citing PICOP Resources, Incorporated (PRI) vs. Anacleto Tañeca, et al., G.R. No. 160828, 9 August 2010; Maralit vs. Philippine National Bank, G.R. No. 163788, 24 August 2009, 596 SCRA 662; Triumph International (Phils.), Inc. vs. Apostol, G.R. No. 164423, 16 June 2009, 589 SCRA 185; Philippine Veterans Bank vs. National Labor Relations Commission, G.R. No. 188882, 30 March 2010; Faeldonia vs. Tong Yak Groceries, G.R. No. 182499, 2 October 2009, 602 SCRA 677; and Emcor Incorporated vs. Sienes, G.R. No. 152101, 8 September 2009, 598 SCRA 617.

[16] See Affidavit of Stella A. Tipanan, page 71, rollo.

[17] Page 67, rollo.

[18] Page 68, rollo.

[19] Page 70, rollo.

[20] See Affidavit of Regina Banzon, page 67, rollo and Sworn Statement of Cresenciano C. Dionio III, pp. 68-69, rollo.

[21] See Affidavit of Regina Banzon, page 67, rollo, and Sworn Statement of Cresenciano C. Dionio III, pp. 68-69, rollo.

[22] Equipment Technical Services vs. Court of Appeals, G.R. No. 157680, October 8, 2008.

[23] Elizabeth C. Bascon, et. al. vs. Court of Appeals, et. al., G.R. NO. 144899, February 5, 2004.

[24] NLRC, SRAB VI, Iloilo City, pages 48-52, rollo.

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