

RODOLFO CANTON AND GERRY MARI-AS, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, 7TH DIVISION, PAN PHIL SPORTSWEAR, INC. AND GLENDA ACLAN, RESPONDENTS.

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HERNANDO, J:

Assailed in this Petition for Certiorari filed by Rodolfo Canton and Gerry Mari-as are the Decision[1] and Resolution dated June 14, 2013[2] and August 23, 2013[3] respectively, issued by the public respondent, National Labor Relations Commission (NLRC), 7[th] Division, Cebu City, in NLRC Case No. VAC-04-000264-2013. The NLRC affirmed the Decision[4] of Labor Arbiter Butch Donabel Ragas-Bilocura which ruled that petitioners were validly dismissed from their employment.

In this appeal, petitioners assert that public respondent gravely erred in sustaining the decision of the Labor Arbiter on the ground that their dismissal was effected without due process or that they were illegally dismissed.

The antecedent facts of this case are as follows:

Rodolfo Canton (Canton) and Gerry Mari-as (Mari-as) were hired as sewers on May 25, 1999 and July 18, 2003, respectively, by Pan-Phil Sportswear, Inc., a domestic corporation engaged in clothing business within the Mactan Export Processing Zone II (MEPZ-II), Lapu-lapu City, Cebu.[5]

On February 11, 2012, Canton failed to report for work since his wife was about to deliver a baby and he accompanied her to the hospital. When he went back to work and to claim his salary on February 27, 2012, he was told that he could no longer be accepted because the company was in a “shutdown” status and he was already terminated from work due to abandonment. His wages for the period covering February 6-10, 2012 was withheld, pending his submission of a resignation letter. He received a termination notice effective February 28, 2012.[6]

On the other hand, Mari-as was told by the management on February 5, 2012 that the company will be on a temporarily “shut-down” and was advised to take a leave of absence. He did not receive a termination letter.[7]

Petitioners argue that as heads of their respective households and sole breadwinners of their family, they should have been given full notice of their termination prior to the actual date so that they could seek other possible employment. As a result of their alleged illegal dismissal from employment, petitioners were constrained to file a case before the labor tribunal.[8]

On the other hand, private respondents deny the assertions of illegal dismissal claimed by the petitioners. Canton, who was at first diligent at the start of his employment, later on became an absentee employee. When queried as to his being absent from his job, he replied that he need to work as a tricycle driver to earn an immediate income instead of merely relying on his job in the company where the salary is given every 15th and 30th of every month. Aside from this, he committed other infractions cited like threatening a co-employee, unsatisfactory work, failing to shut down a machine during break time, failing to wear a hair net and insubordination and disobedience, to which he was given a warning and/or suspension.[9]

On February 11, 2012, Canton failed to report for work. A notice was sent to him on February 14, 2012 requiring

him to report to the office on February 15, 2012. Another letter was sent to him on February 16, 2012 requiring him to work on February 17, 2012. On February 20, 2012 another letter was sent to him to report to work on February 21, 2012. His failure to report for work constrained the company to terminate his services on account of abandonment as contained in a letter sent to him and to the Department of Labor and Employment (DOLE). His mandated legal wages were paid as shown by the payrolls.[10]

Mari-as, who was hired as probationary sewer on March 22, 2004, was also diligent at the start of his employment, thus the company decided to make him a regular employee. However, in 2006, he was late in reporting for work and was suspended for three days. Other infractions by him included not wearing proper uniform, not wearing a hairnet, being absent without leave, performing below par and his finished product was deformed, insubordination, slowing down on his work, low efficiency, tardiness and failing to shut down the machine.[11]

On February 1, 2012 until February 9, 2012, Mari-as was again absent without prior leave. On February 10, 2012, a letter was sent to him requiring an explanation why he was absent and to report to the Human Resource Department (HRD). On February 13, 2012, another letter was sent to him requiring him to report on February 16, 2012 to the HRD. Since he was not heard from, another letter was sent to him on February 17, 2012 terminating his services and a report was likewise submitted to the DOLE.[12]

On August 24, 2010, Labor Arbiter Ragas-Bilocura rendered a Decision finding that petitioners were dismissed based on valid grounds as a form of management prerogative and consequently dismissed the complaint for illegal dismissal, thus:

After a careful perusal of the evidence submitted by the parties, we are persuaded to believe that the respondent corporation was acting well within its rights as an employer to prescribe reasonable rules and regulations necessary for the proper conduct of its business, to provide certain disciplinary measures in order to implement said rules and to assure that the same would be complied with. An employer enjoys the management prerogative protected by our labor laws. It has a wide latitude of discretion in the promulgation of policies, rules and regulations on work-related activities of the employees. In the implementation of its rules and policies, the employer has the choice to do so strictly or not, since this is inherent in its right to control and manage its business effectively.

We find that there were overwhelming evidence to support the respondent's decision to end the employment of the complainants. As readily found on record, the corresponding imposition by the respondent corporation of the penalty for each every offense committed by complainants, trivial or serious, are all within the purview of management prerogative. The respective sanctions imposed on the violations or infraction committed by the complainants was shown to be done in accordance with the requirements of justice and fair play. The several accounts of tardiness, unexcused absences, failure to wear hairnet, uniform and other offenses were duly established by substantial evidence. The complainants were shown to have been made to explain and were accordingly penalized either by a verbal warning or in some instances, made to suffer penalty of suspension for days.

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As clearly established, complainants continued to have committed the nature of offenses despite the sanctions imposed upon them. Complainants continued to exhibit such undesirable behavior. Indeed, the employer cannot be compelled to retain a misbehaving employee, or one who is guilty of acts inimical to its interests. It has all the right to dismiss such an employee if only as a measures of self-protection.

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Anent the issue on money claims, the burden of proof rests upon the employer to show by substantial evidence

that the employee is duly compensated in accordance with law. In the instant case, the respondent corporation was able to show in evidence that the complainants were paid with the mandated minimum wage and of their labor standards, hence, our denial thereof.

Other claims are denied for lack of sufficient basis.

WHEREFORE, foregoing premises considered, judgment is hereby rendered DISMISSING the case for lack of merit.

Other claims are denied for lack of merit.

SO ORDERED.[13]

Upon appeal to the NLRC, the latter sustained the decision of the Labor Arbiter. In fact, it opined that it had no difficulty in sustaining the assailed decision since the records indeed disclosed that throughout petitioners' employment, they found it easy to violate basic employment rules and regulations and have even been absent for long stretches of time without notifying their employer. In its Decision on June 14, 2013, the NLRC dismissed the appeal filed by petitioner and affirmed the judgment of the Labor Arbiter.

Aggrieved by the adverse judgment, petitioners are now before Us, seeking a favorable judgment and supplicates that this Court overturn the findings of the labor tribunal by ruling that they were illegally dismissed.

We find no merit in this petition.

As aptly stated by the labor tribunal, there was sufficient evidence to support the legality of dismissing the petitioners.

Petitioner Canton prays that We review the antecedents of his being absent from work. He narrated that on February 11, 2012, he failed to report for work since his wife was about to deliver a child and he accompanied his wife to the hospital. In the same breath, he stated that on February 27, 2012, he went back to work and to claim his salary. He never offered any explanation as to what he did in the interim to secure his job and to forestall any disruption of work that his employer might suffer due to his unexplained or unadvised absence. We take strong notice that he failed to report for work for about fifteen days but he would still want this Court to overturn the findings of abandonment and consider him to have been illegally dismissed.

True, Canton narrated that their house was gutted by fire on February 23, 2012. However, this fact alone will not account for the days that he was supposed to report for work. He offered no explanation as to why he was absent and instead seeks to put the burden on his employer to prove the legality of his dismissal.

The same is true for Mari-as. He abandoned his job and failed to report to work despite the notice for him to report back.

Petitioners also lament that they are the sole breadwinners and their termination would mean starvation of their respective families if their dismissal will be sustained. While equity may at times be extended in meritorious cases, it should be only on such fact of merit, and not where there has been a clear case of a valid and just act by the employer, as in this case. It behooves petitioners to observe company rules, as that is where they earned their primary income. Their failure to do so means that they did not really care at all for their continued employment.

We see no justification to construe their dismissal as having been made in an illegal manner on this ground. Petitioners should have thought about their predicament prior to their unjustifiable act of abandoning their jobs. Since they strongly asserted that they are the sole breadwinners of their respective families, they out to have loved more their jobs and gave it the proper attention and diligence.

Instead of being attentive to their jobs, the opposite is what is revealed by the records. In a catena of infractions and citations, Canton and Matias were either penalized with warning and suspension.[14] These were duly supported by evidence, as appreciated by the labor tribunal. Since their termination from service had been undertaken in accordance with law, We likewise see no reason to grant them nominal damages.

We therefore rule and so hold that there was no grave abuse of discretion committed by the labor tribunal when it ruled that the petitioners were validly dismissed from service that would not necessitate a writ of certiorari because in this case there is ample evidence to prove that petitioners were validly dismissed.

WHEREFORE, premises considered, the petition is DISMISSED. The assailed Decision dated June 14, 2013 and Resolution dated August 23, 2013 in NLRC Case No. VAC-04-000264-2013 are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Quijano-Padilla, and Azcarraga-Jacob, JJ., concur.

[1] Penned by NLRC Commissioner Julie C. Rendoque and concurred in by Presiding Commissioner Violeta Ortiz-Bantug and NLRC Commissioner Jose G. Gutierrez.

[2] Rollo, pp. 33-37.

[3] Rollo, pp. 39-40.

[4] Rollo, pp. 77-86.

[5] Petition for Certiorari; Rollo, pp. 12-28.

[6] Ibid.

[7] Ibid.

[8] Ibid.

[9] Infra.

[10] Position Paper (For the Respondents); Rollo, pp. 61-75.

[11] Ibid.

[12] Ibid.

[13] Decision of the Labor Arbiter; Rollo, pp. 77-86.

[14] Decision of the Labor Arbiter, supra; Decision of the NLRC, supra.

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