

PHILIPPINE ROCK PRODUCTS, INC., FREDERICK W. DRURY, EUSEBIO B. GARCIA AND AVELINO DE GUZMAN, PETITIONERS, VS. PHILIPPINE ASSOCIATION OF FREE LABOR UNIONS (PAFLU), PEDRO ALVAREZ ...

G.R. No. L-32829. August 30, 1974

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

This is a petition for review on certiorari of a decision of the Court of Industrial Relations in Case No. 4673-ULP dated June 9, 1970, finding the Philippine Rock Products, Inc. (PHILROCK for short), F.W. Drury, E.B. Garcia and Avelino de Guzman guilty of unfair labor practice and directing them to cease and desist from further committing acts of unfair labor practice; and to reinstate Pedro Alvarez to his former position with respondent (now petitioner PHILROCK) without loss of seniority and other privileges appertaining thereto, and with full backwages for a period of two years and two months from the time of his dismissal on July 16, 1966.[1]

The essential and undisputed facts found by respondent Court of Industrial Relations (CIR for short) are as follows:

"That respondent Philippine Rock Products, Inc., (hereafter to be referred to as PHILROCK) is a domestic business establishment engaged in the manufacture and sale of construction materials with its principal office and business address at Shaw Boulevard, Mandaluyong, Rizal, with a unit plant in Montalban, Rizal. Complainant started working with the respondent as a truck driver on July 17, 1964; that on February 9, 1965 said complainant joined as member the Process Division Workers Union which is affiliated with the Philippine Association of Free Labor Unions (PAFLU) (Exhibits "C" and "D"). On July 18, 1965 said complainant became the chapter vice-president of said local union (Exhibits "B" and "B-1"). Respondent F.W. Drury is the Manager of respondent Company, while respondent Engineer Avelino de Guzman is the officer in charge of the Montalban Project. And respondent E.B. Garcia is the Chief Security and Safety Officer.

"After working continuously with respondent company for around two (2) years, complainant first received a letter of suspension on July 5, 1966 from respondent F.W. Drury suspending him for 30 days (Exhibit "3"). Thereafter, on July 15, 1966, within the period of his 30 days suspension, complainant received a letter of dismissal (Exh. "A"). Complainant Pedro Alvarez vehemently denied the imposed charges leveled against him by the respondents so that the issue in this particular case is whether the cause or causes of complainant's dismissal were due to his union activities or affiliation as contended by him or due to his taking out company property without the latter's consent and of uttering some threatening and abusive words against the security guard as maintained by the respondents."

Petitioners herein (respondents below) assigned as errors committed by respondent court, the following:

- That the court erred in holding that Alvarez was dismissed not due to loss of trust and confidence brought about by his theft of company property but due to his union activities and/or membership;

- That the court erred in awarding backwages for a period of two years and two months to complainant Alvarez.

Clearly the main question for determination is whether or not the dismissal of Pedro Alvarez had been due to his union activities or to the alleged loss of confidence which, as previously held by this Court, is a sufficient ground for a worker's dismissal, considering the nature and relationship of the employer and employee, the latter having access to the employers property.[2]

The issue before us involves a question of fact. As We have held time and again that findings of fact by the trial court if supported by substantial evidence are conclusive upon Us, We can on this score dispose of this instant case and affirm the decision appealed from. We have, however, decided to look into the question posed before Us and take up the claims of both parties.

As to the first error assigned, petitioner argues that there is absolutely no evidence on record to sustain the findings of respondent court that complainant was dismissed due to his union activities, or that he was ever harassed by the company before the charge of theft was brought against him. However, a careful study of the record belies this argument. Complainant Pedro Alvarez testified that as Union officer he used to attend conciliation conferences representing the workers of PHILROCK. These meetings were confirmed by Benito Ribu himself who was the personnel officer of PHILROCK when he declared that he knew complainant herein as he used to meet him in grievance meetings and conferences held in connection with the Montalban project of the company, (T.S.N. September 26, 1967 p. 62, Record, cited in Decision of June 9, 1970). Deducible therefrom is the fact that Pedro Alvarez was an active unionist and a fighter for the workers' cause, a matter so much resented by the company that when Pedro Alvarez took out five pieces of lumber with a nominal value of P8.00, the company found in the incident a chance to pin him down by suspension and, subsequently, dismissal. Hence a charge of theft was filed against Alvarez before the Provincial Fiscal of Rizal, but after preliminary investigation this Office dismissed the charge after finding as follows:

"Inasmuch as the alleged taking of the pieces of lumber (5 of them) valued at P8.00 was not surreptitiously done by respondent (Pedro Alvarez) but openly and with the consent of the Security Guard of the Poray Plant, the undersigned (Special Counsel) believes that said respondent is not liable for the offense of theft and the case is hereby dismissed."

The dismissal of the case was prompted by the testimony of none other than the principal witness of the company (Elviro Saladar) who admitted that "on or before June 26, 1966 (the date of the alleged theft of 5 pieces of lumber with dimensions 2 x 3 x 6-3 pcs; 1-1/2 x 2 x 5-1/2 — 2 pcs.) persons were allowed to take out properties of small value from the premises of Poray Plant and that on June 26, 1966, he allowed Pedro Alvarez to take out the pieces of lumber x x x." (Italics supplied).

Obviously the charge was made to harass the complainant. This was also the finding of the trial court in the light of the circumstances surrounding the crime of theft imputed to respondent Pedro Alvarez, Respondent Court in its decision reiterated the declarations of the witnesses for the company, viz:

"Witness for the respondent Elviro Saladar testified that he was the Security Guard in the premises of the respondent company's plant at Montalban, Rizal, on the morning of June 26, 1966; that at about 4:50 A.M. while he was guarding the main gate of the company's premises at Poray Plant in Montalban he saw the complainant carrying on his shoulder five (5) pieces of lumber going out of the company premises (t.s.n. p. 12 hearing of July 25, 1967); that he called the attention of complainant why he was bringing out some property of the company but he was answered that it was none of his business to inquire about said pieces of lumber; that he clarified to said complainant that it was necessary for him to secure a gate pass so that he could bring out said pieces of lumber, but he nevertheless insisted to pass through and to avoid any untoward incident he just recorded the matter in the logbook and reported the same to his superior officer (t.s.n. pp. 25-26, hearing of

July 25, 1967); that the value of said pieces of lumber is P8.00 which he was made to reimburse by the Philippine Security Force Agency out of his salary (t.s.n. pp. 32-33, hearing of July 25, 1967); that the security agency filed a criminal charge for theft against the complainant in the Provincial Fiscal's Office of Pasig, Rizal, regarding the said five pieces of lumber and that he was even the witness in said theft charge. The second witness presented by respondent is Engineer Avelino de Guzman, who testified that he was formerly in charge of respondent company's Poray Plant at Montalban, Rizal, since 1962, up to December, 1966; that he was out of the country thereafter and was reemployed by the respondent company on September 1, 1967, up to the present; that he knew the complainant as a "Euclid driver of respondent company and that sometime in 1966 the service of complainant was terminated by respondent company on the charge of taking out company property; that complainant interceded or made some representations in behalf of respondent workers at the Montalban project regarding their claims ranging from alleged discrimination to overtime claims; that he did not offer any promotion nor did he utter some disgusting words to the complainant when the latter refused the offer of promotion and that his relation with complainant is cordial. The third and last witness for the respondents was Benito Ribu who testified that he is the personnel officer of respondent company; that as such he keeps the records of all personnel and its records on research; that he knew the complainant as he used to meet him in some grievance meetings and conferences regarding the work at the Montalban project: that said complainant was dismissed for cause on July 16, 1966, as there was a notification of the Personnel Section regarding said dismissal; that in connection with complainant's dismissal, respondent company conducted an investigation; that the Security Force Agency filed a petition with the Provincial Fiscal's Office of Pasig, Rizal, to reopen the criminal charge for theft against complainant and that the same was granted (t.s.n. p. 38, hearing of September 26, 1967); that he did not know whether complainant Alvarez was investigated in connection with his dismissal (t.s.n. p. 49, hearing of September 26, 1967); x x x"

Respondent court further made the observation that "no sane person will ever try to bring out prohibited company property through its main gate when the same is guarded by a uniformed and armed security man while he is not so armed." The security guard referred to declared that he just allowed complainant to get through but noted the pieces of lumber on the log book. However, on cross examination, the same security guard declared that he requested complainant to put down the subject pieces of lumber for the purpose of measuring the dimensions thereof and this request was complied with by the complainant. Here the charge of disrespect of authority is in like manner belied. The fact that complainant was allowed to pass through after acceding to the request of the security guard to have the pieces of lumber noted down implies the absence of resistance or utterance of abusive words from Alvarez. The finding of the CIR that the alleged breach of trust is not supported by any evidence is one of fact which We are not authorized to review, much less alter, at this instance.

The second error assigned refers to the back wages awarded by respondent court. Petitioner PHILROCK argues that the award should have been limited to three months as was previously done in the case of *Sta. Cecilia Sawmill Inc. vs. CIR and Tagkawayan Labor Union*.^[3] But the aforecited case is not in point. There this Court fixed the backwages at three months because of the special circumstances therein obtaining, such as the fact that the company was losing and in fact it ceased operations six months thereafter. In the case at bar, there is no showing of any special circumstance to warrant limiting the back wages to three months.

The plain fact is that in this case an unfair labor practice was deliberately committed by PHILROCK. We abhor and condemn such act as conducive to impairment of industrial peace. Unfair labor practices have given rise to man social problems which have marred the relationship between labor and capital. The guilty party must, therefore bear the consequence of his illegal act. The purpose behind the reinstatement of Alvarez and to award to him backwages is to effectuate the policies of the Industrial Peace Act and to restore the status that would have existed but for the unfair labor practice.

Following the rule We established in *Mercury Drug Co., Inc., et al. vs. Court of Industrial Relations et al.*, G.R.

No. L-23357, April 30, 1974; National Shipyards and Steel Corporation (NASSCO) vs. Court of Industrial Relations (CIR), et al., G.R. No L-31852, June 28, 1974; P.A. Almira, et als., vs. B.F. Goodrich Philippines, Inc., et als., G.R. No. L-34974, July 25, 1974; and FEATI University Faculty Club (PAFLU) vs. FEATI University and Court of Industrial Relations, G.R No. 31503. August 15, 1974, private respondent Pedro Alvarez shall be paid backwages for a period of four (4) years jointly and severally by the petitioners, it appearing that by reason of their appeal the execution of judgment in favor of respondent Pedro Alvarez was long delayed.

WHEREFORE, the decision of the respondent court dated June 9, 1970, is hereby affirmed, except that the backwages to be awarded to respondent Pedro Alvarez shall cover a period four (4) years, without qualification. Costs against petitioners.

Makalintal, C.J., Castro, Teehankee, Makasiar, and Muñoz Palma, JJ., concur.

[1] Decision June 9, 1970 pp. 58-68 Record.

[2] Nevans vs. CIR L-21510 June 29, 1968, 23 SCRA 1321.

[3] L-19273-74, February 29, 1964.

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