

MA. CECILIA B. BINALLA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, DESTILERIA LIMTUACO & CO., OLIVIA L. AW AND JOYCE L. UYCHIAOCO, RESPONDENTS.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Petitioner fulminates against the Resolution[1] dated 25 April 2013 partially granting private respondents' Motion for Reconsideration[2] of the Decision[3] rendered by the National Labor Relations Commission (NLRC), in NLRC NCR 08-13023-11.

Private respondent Destileria Limtuaco and Co., Inc. (Destileria), a domestic corporation engaged in the business of manufacturing wine and liquor products, provides free medical and dental services to its employees. Under its employ are physicians, dentists and nurses.[4] Co-private respondents Olivia Aw (Olivia) and Joyce Uychiaoco (Joyce) are Destileria's President and Vice President for Administration and Finance, respectively.

Petitioner Ma. Cecilia Binalla (Cecilia) is Destileria's Company Nurse who was hired on 1 August 2005.[5] After two months, she was temporarily assigned as Sanitation and Housekeeping Head[6] apart from her duties as company nurse. Later on, she was given additional responsibilities as a canvas-ser or purchaser, telephone operator and fixed asset custo-dian. Two years after performing her myriad tasks, Cecilia received a memorandum from her supervisors pertaining to her "poor" job performance evaluation. Thus, she was relieved of her position as Sanitation and Housekeeping Head and sternly warned to exert all efforts to improve her performance within three months.[7] Cecilia did not receive any follow-up memo, giving her the impression that she was doing well. But then again on 11 March 2011, she received another Memo[8] that her performance was still "unsatisfactory." Destileria gave her another two months to improve her work. After the lapse of this period, Cecilia's services were still retained.

Sometime in May 2011, Cecilia was made to conduct a medical evaluation of a certain applicant who was applying for the position of Company Driver. Cecilia declared the applicant as "fit to work" but with a notation that he had "noticeable difficulty in reading small letters."

As it happened, Destileria, through its HR Manager, recommended that Cecilia should opt to resign due to her poor work performance. If she refused, she would be made to account for all medicine and office supplies which came into her possession. Cecilia refused to resign prompting Destileria to conduct an inventory whereby it was discovered that she had a shortage of P5,216.14.[9]

When Cecilia became ill and applied for seven days sick leave, her application was denied on the ground that she failed to consult the company doctor prior to her application. Upon her return to work to consult the company doctor who was unfortunately absent, her request for sick leave was again disallowed. Despite being under the weather, Cecilia was forbidden to leave the company premises and was ordered to report to work. She was only able to go home with the help of her sibling.

Cecilia attempted to return to work on 30 July 2011 but she was denied access to the company premises. Her "ELID" swipe card for time-in and time-out purposes was deactivated by Destileria and her name was removed from the roster of employees. Worse, she subsequently received a Show-Cause Memo[10] dated 3 August 2011, giving her 24 hours to explain her disobedience to company rules and regulations.[11] On the same day, she received another Memo[12] ordering her to update the records of the office as well as to submit a hard copy of all receiving reports and issuance slips.

Cecilia immediately submitted her written explanation[13] and complied with the receiving reports and issuance slips. Finding her explanations unsatisfactory, Destileria conducted an administrative investigation. On 5 August 2011, she attended the administrative hearing where she disputed all the allegations of irregularities and violations of company rules and regulations. In the end, she received a Notice of Termination[14] dated 22 August 2011 stating that she committed acts of dishonesty and disorderly conduct prejudicial to the interests of the company.

Confuting the averments of the Complaint, Destileria, Olivia and Joyce (collectively, private respondents) contended that they had valid reasons to terminate Cecilia's services as she obtained poor work performance ratings, absented herself without official leave, achieved unsatisfactory performance in her concurrent position as Sanitation and Housekeeping Head which led to her relief from duties. Likewise, Cecilia erringly recommended a driver applicant as "fit to work" when in fact said applicant had poor visual acuity. They observed that Cecilia failed to properly use medical tools and to observe sanitation procedures for medical tools and equipment. Moreover, she incurred shortages in the inventory of supplies. Destileria likewise maintained that it observed due process before terminating Cecilia's services. During the hearing, she proffered lame excuses for her negligence and failure to abide by company rules.

Confronted with the parties' diametrical postures, the Labor Arbiter rendered a Decision[15] dated 30 April 2012 dismissing Cecilia's Complaint, viz:

"WHEREFORE, premises considered, judgment is here-by rendered finding complainant (Cecilia) to have been legally dismissed from employment, and accordingly dismissing the instant case for lack of merit.

Respondent company (Destileria), however, is hereby directed to pay complainant's (Cecilia's) proportionate 13th month pay from January 1 to August 22, 2011, in the amount of P7,666.66. All other monetary claims are likewise hereby denied for lack of sufficient particular factual or legal basis.

SO ORDERED."[16]

Cecilia lost no time in partially appealing[17] the foregoing Decision to the NLRC. She argued that there was no basis for her dismissal on account of willful breach of trust and confidence. Aside from her job as Company Nurse, Destileria required her to perform additional jobs on top of her duties i.e., telephone operator, fixed asset custodian and purchaser. These other assumed positions disregarded her professional competence as a nurse and amounted to a demotion in rank. Evidently, the demotion effected by Destileria was tantamount to constructive dismissal. She merely clung to her position out of need to support her family. Further, Destileria did not observe due process for failing to give her ample time to answer the charges against her.

In due course, the NLRC rendered a Decision dated 15 February 2013 finding merit in Cecilia's Appeal. The labor tribunal adjudged as follows:

"WHEREFORE, premises considered, the appealed Decision is hereby SET ASIDE and a new one is entered ordering respondents-appellees (Destileria) to reinstate complainant (Cecilia) without loss of seniority rights and other benefits and to pay the complainant-appellant (Cecilia) backwages to be computed from the date of her dismissal up to her actual reinstatement to her job which as of date of this decision is in the aggregate amount of P225,580.48; and to pay her P20,000.00 for moral and exemplary damages, and 10% of the total

monetary award as attorney's fees.

SO ORDERED."[18]

Aggrieved, private respondents sought for reconsideration.[19] This time the NLRC, in the assailed Resolution, modified its previous pronouncement and ruled that notwithstanding the illegal dismissal of Cecilia, reinstatement cannot be had due to apparent strained relations between the parties. The NLRC thus disposed:

"WHEREFORE, premises considered, the Motion for Reconsideration is partially granted modifying the earlier Decision dated February 15, 2013. Accordingly, respondents (sic) DISTELERIA LIMTUACO & CO.(.) INC. is hereby ordered to pay complainant-appellant her separation pay in the amount of P69,000.00, in lieu of reinstatement; 13th month pay in the amount of P7,666.66; and 10% of the total monetary award as attorney's fees.

Respondents Olivia L. Aw and Joyce L. Uychiauco are hereby absolved from any liability for being a mere officer of the respondent corporation and in the absence of evidence showing bad faith or acting beyond their authority.

No further motion of similar nature will be entertained.

SO ORDERED."[20]

Taking umbrage at the foregoing Resolution, Cecilia (now, petitioner) comes before Us through the instant Petition for Certiorari[21] imputing grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the NLRC for—

ICATEGORICALLY DECLARING THAT THE PETITIONER WAS ILLEGALLY DISMISSED BUT IS NOT ALLOWED REINSTATEMENT TO HER PREVIOUS POSITION WITHOUT LOSS OF SENIORITY RIGHTS DUE TO THE EXISTENCE OF STRAINED RELATIONSHIP BETWEEN HER AND THE PRIVATE RESPONDENTS;

II CATEGORICALLY DECLARING THAT THE PETITIONER WAS ILLEGALLY DISMISSED BUT IS ONLY ENTITLED TO SEPARATION PAY IN LIEU OF REINSTATEMENT;

III REMOVING THE AWARD OF BACKWAGES;

IV REMOVING THE AWARD OF MORAL AND EXEMPLARY DAMAGES.

A modification of the monetary award given by the NLRC is in order.

Quintessentially, petitioner is not assailing the NLRC's adjudication that she was illegally dismissed. She propounds that an illegally dismissed employee cannot be reinstated only when it is shown that strained relationship exists between the parties. Given that private respondents' pleadings failed to substantiate the presence of strained relations between them, she must be reinstated to her former position.

We digress. The NLRC infallibly ruled that there exists a strained relationship between petitioner and private respondents.

It is a well-entrenched rule, especially in labor cases, that findings of fact of quasi-judicial bodies, like the NLRC, are accorded with respect, even finality, if supported by substantial evidence.[22]

Albeit the NLRC, in the impugned Resolution, merely mentioned that there is an indicia of strained relations between the parties, its Decision nonetheless explained why reinstatement was no longer justified. It was shown that private respondents unjustly demoted petitioner and made her assume several tasks which were alien to her position as Company Nurse. This, notwithstanding, petitioner still chose to remain under the employ of private

respondents out of dire need but with harbored ill-feelings against them.

On the other hand, private respondents manifested animosity over the presence of petitioner in the work place. They refused to allow her to return to work and were convinced that her poor performance made her ineligible to continue to hold her assumed responsibilities. They already concluded that petitioner performed acts inimical to the interests of the company making her continued employment unsuitable. Discernibly, these factual circumstances justify the NLRC's finding that reinstatement was no longer feasible and that separation pay in lieu of reinstatement was in order.

The next issue comes down the pike. Did the NLRC commit grave abuse of discretion in deleting the award of backwages and damages and in holding that private respondents shall be liable only for payment of separation pay, 13th month pay and attorney's fees?

We answer in the affirmative.

Article 279 of the Labor Code[23] explicitly provides that an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges, with payment of full backwages, inclusive of allowances, and to other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. Due to the strained relations of the parties, however, the payment of separation pay has been considered an acceptable alternative, when reinstatement is no longer desirable or viable. On the one hand, such payment liberates the employee from what could be a highly oppressive work environment. On the other, the payment releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust. Thus, as an illegally dismissed employee, petitioner is entitled to separation pay since reinstatement is no longer viable.[24]

Jurisprudence is replete with iterations that the basis for the payment of backwages is distinct from that of the award of separation pay. Separation pay is granted because of strained relations between the employee and the employer where reinstatement is no longer advisable. Back wages represent compensation that should have been earned but were not collected because of the unjust dismissal.[25]

Guided by the foregoing jurisprudential precepts, petitioner is evidently entitled to backwages in addition to separation pay in lieu of reinstatement and other monetary benefits.

We ought to remind the NLRC that backwages are granted on grounds of equity to workers for earnings lost due to their illegal dismissal from work. They represent reparation for the illegal dismissal of an employee based on earnings which the employee would have obtained, either by virtue of a lawful decree or order, as in the case of a wage increase under a wage order, or by rightful expectation, as in the case of one's salary or wage. The outstanding feature of backwages is the degree of assuredness to an employee that he would have had them as earnings had he not been illegally terminated from his employment.[26]

Ostensibly, the NLRC did not modify its previous pronouncement that petitioner was illegally dismissed, and thus, it fell into error in deleting the award of backwages. In actual fact, petitioner was categorically declared as unjustly dismissed for failure of private respondents to prove that it had valid grounds to dismiss petitioner and for failure to afford her sufficient time to intelligibly prepare her defense. Glaringly, the NLRC's finding that petitioner was not entirely faultless in committing acts which justified her termination from services is antithetical to its pronouncement that petitioner was illegally dismissed.

By the same token, We find palpable error in the deletion of the award of moral and exemplary damages.

The NLRC correctly adjudged petitioner as entitled to moral and exemplary damages since it was proven that

private respondents committed acts against her which are oppressive to labor. It bears accent that with the finding that petitioner was illegally dismissed with the corresponding finding that she was made to suffer from oppressive treatment accorded by private respondents, she is entitled to moral damages and exemplary damages. The record evinces that petitioner bore wounded feelings against private respondents and suffered mental anguish during her employment until her services were illegally terminated.[27] Moral damages are awarded if it is proven that the claimant has suffered anxiety, sleepless nights, besmirched reputation and social humiliation by reason of the act complained of.[28] Upon the other hand, exemplary damages are granted in addition to, inter alia, moral damages "by way of example or correction for the public good" if the employer "acted in a wanton, fraudulent, reckless, oppressive or malevolent manners." [29]

A final reflection. We commiserate with petitioner who still opted to remain under the employ of private respondents out of dire need. All the same, We cannot compel the latter to retain her under their employ if to their mind she is no longer fit to discharge her duties. Petitioner must, nonetheless, be entitled to full benefits accorded to an illegally dismissed employee and this necessarily includes payment of backwages.

WHEREFORE, the Resolution dated 25 April 2013 of the National Labor Relations Commission in NLRC NCR Case No. 08-13023-11, is AFFIRMED with MODIFICATION in that apart from separation pay, 13[th] month pay and attorney's fees, petitioner Ma. Cecilia Binalla is entitled to an award of: (1) full backwages, inclusive of allowances and other benefits or their monetary equivalent, computed from the date of her dismissal from service up to the finality of this Decision; and (2) moral and exemplary damages in the aggregate amount of P20,000.00. These monetary awards shall earn legal interest at the rate of six percent (6%) per annum computed from the finality of the Decision until their full satisfaction.

SO ORDERED.

Ybañez, and Manahan, JJ., concur.

[1] Rollo, pp. 353-357.

[2] Id., pp. 326-348.

[3] Dated 15 February 2013; Id., pp. 312-325.

[4] Id., p. 119.

[5] See Letter dated 1 August 2005; Rollo, pp. 58-59.

[6] See Notification of Personnel Action; Id., p. 61.

[7] Id., pp. 85-86.

[8] Id., p. 90.

[9] Id., p. 97.

[10] Rollo, pp. 104-105.

[11] Article II - Acts or Omissions Affecting Company Interest and Policy

Section I

Forging, falsifying or intentionally altering official documents in such a way to mislead the user thereof.

Section 15b

Carelessness, neglecting to follow and obey oral or written instructions of Company officers, Company orders, office circulars, work instructions, or to perform assigned work, not constituting insubordination but resulting damage to Company property not exceeding the employee's three-month salary.

Article IV - Acts or Omission Constituting An Offense Against Administration, Section 3a:

Absence without official leave (AWOL)

[12] Rollo, p. 106.

[13] Id., pp. 107-108.

[14] See Termination Letter dated 19 August 2011; Id., pp. 111-114.

[15] Rollo, pp. 237-251.

[16] Id., p. 250.

[17] See Partial Appeal; Id., pp. 252-281.

[18] Rollo, pp. 323-324.

[19] See Entry of Appearance with Motion for Reconsideration; Id., pp. 326-351.

[20] Id., p. 356.

[21] Rollo, pp. 1-30.

[22] See Philippine Spring Water Resources, Inc./Danilo Lua v. Court of Appeals and Juvenstein Mahilum, G.R. No. 205278 (11 June 2014).

[23] ART. 279. SECURITY OF TENURE. –In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.

[24] See Philippine Spring Water Resources, Inc./Danilo Lua v. Court of Appeals and Juvenstein Mahilum, G.R. No. 205278 (11 June 2014).

[25] See Wenphil Corporation v. Almer Abing and Anabelle Tuazon, G.R. No. 207983 7 April 2014).

[26] See Philippine Spring Water Resources, Inc./Danilo Lua v. Court of Appeals and Juvenstein Mahilum, G.R. No. 205278 (11 June 2014).

[27] See Position Paper; Rollo, p. 49.

[28] See Mcmer Corporation, Inc., Macario Roque, Jr. and Cecilia Alvestir v. National Labor Relations Commission and Feliciano Libunao, Jr., G.R. No. 193421 (4 June 2014).

[29] Ibid.

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