

EMILIANO MORABE, ACTING CHIEF, WAGE ADMINISTRATION SERVICE, PETITIONER AND APPELLANT, VS. WILLIAM BROWN, DOING BUSINESS UNDER THE NAME AND STYLE OF CLOVER THEATER, RESPONDENT AN...

G.R. No. L-6018. May 31, 1954

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from a judgment of the Court of First Instance of Manila denying a petition of the chief of the Wage Administration Service for the reinstatement of Pablo S. Afuang by the respondent William Brown. The original petition filed in the Court of First Instance alleges that the respondent had dismissed Pablo S. Afuang because in an investigation conducted by the petitioner of charges against the respondent that the latter paid his employees beyond the time fixed in Republic Act No. 602, the said Afuang was one of the complainants; that the respondent discharged the said employee in violation of section 13 of said Act. The petitioner, therefore, prayed that the respondent be ordered to reinstate Pablo S. Afuang, and that a writ of preliminary mandatory injunction issue for his reinstatement. The court issued a writ of preliminary mandatory injunction. Thereafter, the respondent presented a petition asking for the dismissal of the petition on the ground that Pablo S. Afuang had presented a letter asking excuse or apology from the respondent for having taken his case to court. This motion to dismiss was, however, not acted upon, and the case was heard and the parties presented their evidence. On May 2, 1952, the Court of First Instance rendered judgment finding that the dismissal from the service of Pablo S. Afuang is unlawful and violates section 13 of the Minimum Wage Law, because the fact that he testified at the investigation is not a valid ground for his dismissal from the service. The court, however, refused to grant an order for the reinstatement of said Pablo S. Afuang on the ground that this remedy, which it considers as an injunction, is available only against acts about to be committed or, actually being committed, and not against past acts; that injunction is preventive in nature only; and that as the law has already been violated, the remedy now available is for the prosecution of the employer for the violation of the Minimum Wage Law, and not for the reinstatement of Pablo S. Afuang. It, therefore, dismissed the action, as well as the petition for the writ of preliminary mandatory injunction, and that which was theretofore granted was dissolved. Against this judgment an appeal has been prosecuted to this Court.

The only assignment of error is that the lower court erred in not ordering the respondent to reinstate Pablo S. Afuang in the service. It is evident that the court a quo erred in considering that mandatory injunction is preventive in nature, and may not be granted by the Court of First Instance once the act complained of has been carried out. The action of the petitioner is not an action of injunction but one of mandamus, because it seeks the performance of a legal duty, the reinstatement of Pablo S. Afuang. The writ known as preliminary mandatory injunction is also a mandamus, though merely provisional in character. In the case at bar, Pablo S. Afuang was entitled to continue in the service of respondent, because his act is expressly provided to be no ground or reason for an employee's dismissal. Section 13 of Republic Act No. 602 states that "it shall be unlawful for any person to

discharge or in any other manner to discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, * * *." Pablo S. Afuang was, therefore, unlawfully deprived of his right or privilege to continue in the service of the respondent, because his dismissal was unlawful or illegal. Having been deprived of such right or privilege, it is within the competence of courts to compel the respondent to admit him back to his service.

In the case of Manila Electric Co. vs. Del Rosario and Jose, 22 Phil., 433, the lower court ordered the Manila Electric Co. to furnish electric current to Jose, the electric company having cut the current to Jose's house because it suspected him of stealing electricity by the use of a jumper. This Court held that the action was not one of injunction but of mandamus, as it compelled the electric company to furnish Jose with electric service. In the case at bar, the court can also order the respondent to reinstate Pablo S. Afuang. Were we to hold that Afuang may not be reinstated because he has already been dismissed, there would not be any remedy against the injustice done him, or for him to return to the position or employment from which he was unlawfully discharged. This remedy (of ordering reinstatement) has been granted in parallel situations by the Court of Industrial Relations with our approval, when laborers have been illegally separated by their employers without legal or just cause. This remedy has also been granted in similar cases in the United States, from which jurisdiction the Minimum Wage Law or Republic Act No. 602 has been taken. (Walling, etc. vs. O'Grady, et al., No. 2140, Nov. 3, 1943, U. S. District Court, Southern District of New York; 3 WH Case 781.)

The judgment appealed from is hereby reversed, and the respondent William Brown is hereby ordered to reinstate Pablo S. Afuang to the position he held prior to his dismissal. Without costs.

Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, A.,Jugo, Bautista Angelo and Concepcion, JJ., concur.

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