

PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, PETITIONER, VS. FREE TELEPHONE WORKERS' UNION (PAFLU) AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-23290. August 31, 1970

Ponente: CASTRO, J.

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CASTRO, J.:

Appeal by certiorari from a resolution of the Court of Industrial Relations (CIR) dated January 27, 1964, ordering the reinstatement of Rosario Badillo, a switchboard operator dismissed by the petitioner Philippine Long Distance Telephone Company (PLDT).

On February 15, 1960, the PLDT dismissed two switchboard operators, Rosario Badillo and Sally H. Lim, who were found guilty by the Company of chatting through their trunklines concerning private matters for about fourteen minutes while both were on duty on February 10, 1960. The conversation centered principally on a sum of money which Badillo wanted to borrow from Lim.

About five months thereafter, or more precisely on July 6, 1960, the respondent Free Telephone Workers' Union, of which the two operators were members, staged a strike. This strike was subsequently certified to the CIR by the President of the Philippines as involving an industry indispensable to the national interest. Among the various demands of the Union was the reinstatement of several employees (including the two aforementioned operators).

After hearing this particular phase of the labor dispute, the CIR affirmed the dismissal of Lim on the basis of her several past infractions of Company rules.

Reinstatement of Badillo was, however, ordered, for the following reason:

"The February 10, 1960 incident does not seem to be of her own making. Feminine curiosity seems to be the motivation of her taking the opportunity to converse with Sally H. Lim. This Court is of the opinion that she be given another opportunity, and in doing so, it will lessen the tension in the labor dispute in question."

The PLDT's motion for partial reconsideration was denied.

The PLDT now questions the CIR's jurisdiction over this particular demand of the respondent Union; additionally, the PLDT contends that the said demand is barred by laches, and that the dismissal of Badillo was justified considering that the February 10, 1960 incident was not the only nor the first instance of violation by her of Company regulations.

We find no merit in the petitioner Company's contentions.

1. On the issue of jurisdiction, it will be noted that the labor dispute was certified by the President to the CIR, and, as found by the said court, the termination of the services of Ladino and Lim was "one of the causes of the labor dispute in question, resulting in its certification by the President of the Philippines." We find no reason to disturb the CIR's assumption of jurisdiction over this aspect of the labor dispute. The court was in a better position to

determine, after due investigation, whether in fact the reinstatement demand of the Union formed an important part of the labor dispute so that such demand plus the other issues occasioned and precipitated the strike.

2. On the question of laches, it is our view that Badillo did not sleep on her rights. Our examination of the record does not disclose that Badillo had intended to abandon her claim for reinstatement. The mere lapse of time - five months in this case - that, the PLDT argues, bars her now from asserting her claim, is not by itself sufficient to prove that laches had supervened. Since Badillo was then a member of the respondent Union, it is more in line with reason and the presumption of our labor laws to assume, there being no proof to the contrary, that in the intervening period after her dismissal and before the Union went on strike, she had sought the assistance of the latter about her case, and it would appear that the Union, believing in the reasonableness of her claim, pressed the demand of her reinstatement as well as that of her other co-employees.

3. The final point sought to be made by the PLDT is that Badillo's various infractions of Company rules justified her dismissal.

It is true that in January, 1956, while on seafront duty, Ladino was found to have breached Company regulations, specially those referring to the prohibition against conversing on private matters with fellow operators or with subscribers, or listening in on subscribers' conversations; and that in October, 1958 a subscriber had complained against her for discourtesy.

Badillo, however, has already been meted out penalties corresponding to these previous infractions: the first with suspension of five days, and the second with a reprimand.[1]

Hence, resolution of the question of Badillo's dismissal should be confined to the consideration of its immediate and direct cause, and to the legal effects thereon of the events that transpired thereafter.

It is not controverted that on February 10, 1960 Badillo violated the Company's rule prohibiting switchboard operators from engaging in private conversation while on duty. The issue of her dismissal went to the CIR as part of a labor dispute certified by the President under section 10 of R.A. 875. Unlike the other issues in the certified dispute, however, the issue of the reinstatement of Badillo and Lim had reached an impasse in the sense that both parties were unwilling to budge an inch from the respective positions they had taken. This development left the CIR with no other recourse but to invoke and exercise its powers under the law to effect an affirmative solution that will end one of the causes of industrial unrest in the Company's premises.

The CIR affirmed the dismissal of Lim, but absolved Badillo from the same penalty because, apart from what the court a quo believed to be the unfairness of that penalty, "the reinstatement of Badillo will lessen the tension in the labor dispute in question." Bearing in mind that, for the purpose of cutting the tendons of industrial unrest, an amplitude of discretionary power has been bestowed by law upon the CIR in a certified labor dispute, we are of the considered opinion that the said tribunal did not exceed its jurisdiction in issuing its order of January 27, 1964.

This Court, however, cannot dismiss as frivolous or inconsequential the Company's assertion that it acted in the manner it did in its bona fide belief that the totality of Badillo's various infractions of Company rules justified her dismissal. In view thereof, we uphold the decision of the CIR to the effect that although Badillo is entitled to reinstatement, she should not be awarded back wages or any other pecuniary compensation for the period from February 15, 1960 (the date of her dismissal) to the date of her reinstatement.

ACCORDINGLY, modified in the sense that the reinstatement of Badillo shall take effect on July 21, 1964, when the CIR en banc denied the PLDT's motion for reconsideration, the judgment a quo is affirmed. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

[1] See *National Fastener Corp. vs. C.I.R.*, 1 SCRA 18 (1961), and *Henares and Sons vs. Nat'l Labor Union*, 3 SCRA 766 (1961), where this Court likewise refused to consider past violations of company rules for which an employee had already been reprimanded or otherwise punished by the company.

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