

NATIONAL LABOR UNION, PETITIONER, VS. THE COURT OF INDUSTRIAL RELATIONS AND VICTORY LINER, INC., RESPONDENTS.

G.R. No. L-33725. August 31, 1978

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

This is an appeal by certiorari from the resolution of the Court of Industrial Relations en banc in Case No. 2236-ULP, reversing the decision of the trial judge finding the private respondent Victory Liner, Inc., guilty of unfair labor practice and ordering the reinstatement of Pacifico Navarro with back wages from the time of his dismissal.

The petitioner, as complainant in CIR Case No. 2236-ULP, charged the private respondent of unfair labor practice allegedly committed as follows:

xxx xxx xxx

"3. That Pacifico Navarro, a member of the complainant and employed by the respondent corporation since June 10, 1959 as driver, was refused trip assignments by respondent corporation, through its general manager Eugenio Trinidad, since March 23, 1959 up to the first few days of September, 1959 without any cause except for his union membership and activities in the complainant union;

"4. That on or about September 5 or 6, 1959, the above-named general manager of the respondent called Pacifico Navarro to the former's office and asked him why he insistently go on meeting and talking with Francisco Danao and Rolando Bartolome, the local president and secretary, respectively, of the complainant union, when he (Pacifico Navarro) knew them to be the trouble makers and were the ones convincing the other employees to join the union; and when he answered what was wrong about it since they are the officers of complainant union and were his co-workers, the said general manager got angry and told him that since he could no longer work with the respondent company, he should better go to the officers of his union and asked the work he needed and just see what help they could do for him;

"5. That on September 8, 1959, respondent corporation through the same Eugenio Trinidad, dismissed Pacifico Navarro from his work without just and valid cause but for his continued membership and activities in the complainant union;"[1]

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In its amended answer,[2] the private respondent denied the allegations of the complaint and alleged by way of special defenses:

“1. That on or about March 24, 1959, the complainant Pacifico Navarro recklessly and imprudently drove and managed a passenger bus of respondent, as a result of which the said bus met an accident;

“2. That as a consequence of the said accident, a number of passengers were injured and great damage was caused to the respondent's property;

“3. That after due and careful investigation of the said accident, the respondent found out that the proximate cause of the same was the gross negligence and reckless imprudence of the said Pacifico Navarro;

“4. That because of the said reckless negligence and considering complainant's previous misdemeanors and inefficiency, the respondent has been constrained to separate the said complainant Pacifico Navarro from its service in order to avoid further accident and danger to the public as well as loss and damage to its business and property and for the good of the service;

“5. That the respondent and/or any of its officers have not and do not interfere with the rights and privileges of its employees insofar as the latter's freedom to organize and bargain collectively is concerned; that, in fact, there is still in force a collective bargaining agreement in the respondent company;

“6. That the instant case is entirely groundless and clearly malicious, and has been instituted by the complainant union at the instance of said Pacifico Navarro for the sole purpose of intimidating and compelling the respondent to reinstate and continue the said Pacifico Navarro in its service and employment, notwithstanding his bad record and the detriment and danger caused by this continuance in the employ of the respondent to both the latter's property and to the general public.”

After hearing, the trial judge rendered a decision,[3] dated September 16, 1970, finding the private respondent guilty of unfair labor practice and ordering the reinstatement of Pacifico Navarro with back wages from the time of his dismissal on September 1, 1959, until actually reinstated, less whatever earnings he had had during the said period. Private respondent moved to reconsider[4] the aforesaid decision. Acting upon the said motion for reconsideration, the respondent Court of Industrial Relations sitting en banc rendered its resolution,[5] dated January 26, 1971, reversing and setting aside the decision of the trial judge, and absolved the private respondent from the charge of unfair labor practice.

Hence, the petitioner interposed the present appeal.

Briefly the facts as found by the respondent court and as stated in the appealed resolution, are as follows:

"x x x Complainant Pacifico Navarro had been a driver of respondent Victory Liner, Inc., since June 10, 1955, with a fixed salary of P120.00 a month (t.s.n., pp. 10-11, January 11, 1960). On March 24, 1959, while driving one of the company's supercoaches (t.s.n., p. 52, February 23, 1960), Navarro met an accident at Barrio

Pinulot, Dinalupihan, Bataan, which resulted in injuries to several passengers and damages to the bus itself. The company paid compensation for damages to the injured passengers in the total amount of P2,000.00, Navarro himself admitted that because of this accident, the company did not allow him to drive anymore starting March 24, 1959 (t.s.n., pp. 16-17, January 11, 1960).

"After investigation, respondent Trinidad signed on September 1, 1959 the separation papers of Navarro by reason of the said accident (Exhibit "1"). It was sent by registered mail to Navarro on September 4, 1959 (Exhibit "1-B") and was received by him on September 8, 1959 (Exhibit "1-A"; t.s.n., p. 63, January 11, 1960). Before the said accident, Navarro appears to have committed various offenses for which he was punished or reprimanded, some of which being the offenses referred to in Exhibits "6", "14", "15", "16", and "19".[6]

The appeal is devoid of merit. To begin with, the petitioner maintains that respondent court erred in not finding the private respondent guilty of unfair labor practice, pointing out that its resolution is not supported by substantial evidence. It failed, however, to point out what portion of the resolution is not supported by substantial evidence so as to justify this Court in reviewing the facts of the case. It merely quoted a portion of the decision of the trial judge and invited the attention of this Court to the dissenting opinion[7] of Judge Amando C. Bugayong, concurred in by Judge Arsenio I. Martinez, who as trial judge tried to justify his own decision. On the contrary, a cursory reading of the resolution of respondent Court shows that in exonerating the private respondent from the charge of unfair labor practice, its findings and conclusions therein were solely predicated on the evidence presented by the parties, and the decision of the trial judge himself. It is well settled that the findings of fact of the Court of Industrial Relations sitting en banc is conclusive in the absence of showing that the same have no support in evidence in line with the rule that this Court will not review findings of fact of the Court of Industrial Relations as long as the same are supported by evidence. This is so because the Court of Industrial Relations is governed by the rule of substantial evidence rather than by the rule of preponderance of evidence as in ordinary civil cases.[8]

It follows, that respondent Court did not err in absolving the private respondent from the charge of unfair labor practice.

Again, the petitioner's contention that respondent court erred in not reinstating Pacifico Navarro with back wages because his dismissal was without a just and valid cause as found by the trial judge is untenable. It should be recalled that the complaint filed in the court below was for unfair labor practice against the private respondent. The resolution of the case, therefore, hinges on the correctness of the resolution of the respondent court absolving the private respondent from the charge of unfair labor practice. Petitioner's insistence in the present appeal that the respondent court should have ordered the reinstatement of the dismissed employee in view of the finding of the trial judge that his dismissal was without a just and valid cause is actually a change of theory in the court below. At any rate, even assuming that such was the case, the respondent Court of Industrial Relations did not possess authority to order reinstatement of the dismissed employee after the petitioner failed to prove the unfair labor practice charged against the private respondent. Nevertheless, the dismissed employee, contrary to the petitioner's claim, is not entirely without a remedy if his charge of unfair labor practice fails and his complaint dismissed, because the breach by the employer of the obligation to him may be redressed like an ordinary contract or obligation.[9] That has been the consistent ruling of this Court.[10]

WHEREFORE, the resolution of the Court of Industrial Relations en banc appealed from is hereby affirmed, with costs against the petitioner.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Aquino, and Santos, JJ., concur.

[1] Annex "A", p. 14, rollo.

[2] Annex "B", p. 18, rollo.

[3] Annex "C", p. 21, rollo.

[4] Annex "A", Opposition to Petition, p. 59, rollo.

[5] Annex "D", p. 42, rollo.

[6] Annex "D", pp. 41-43, rollo.

[7] pp. 49-51, rollo.

[8] Industrial, Commercial, Agricultural Workers Organization (ICAWO) vs. Jose S. Bautista, et al., L-15639, April 30, 1963, 7 SCRA 907.

[9] National Labor Union vs. Insular-Yebana Tobacco Corporation, L-15363, July 31, 1961, 2 SCRA 924.

[10] See Cagalawan vs. Customs Canteen, et al., L-16031, Oct. 31, 1961, 3 SCRA 403; Baguio Gold Mining Co. vs. Tabisola, et al., L-15265, April 27, 1962, 4 SCRA 1139; Malaya Workers Union (PAFLU), et al., vs. Court of Industrial Relations, et al., L-17880-81, April 23, 1963, 7 SCRA 697; Pan American Airways, Inc. vs. Court of Industrial Relations, et al., L-20434, July 30, 1966, 4 SCRA 813; Pagkakaisang Itinataguyud Ng Mga Manggagawa Sa Ang Tibay (PIMA), et al. vs. Ang Tibay, Inc., et al., L-22273, May 16, 1967, 20 SCRA 45.

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