

MARVEL BUILDING CORPORATION, PETITIONER, VS. HONORABLE BLAS F. OPLE, AS SECRETARY OF LABOR, HONORABLE VICENTE LEOGARDO, JR., AS OFFICER-IN-CHARGE, REGIONAL OFFICE NO. 04, DEPART...*G.R. No. L-44302. May 20, 1983*

Ponente: FERNANDO, C.J.

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A procedural due process issue is raised in this certiorari proceeding against private respondent Imelda V.C. Haw and public respondents then Officer-in-Charge Vicente Leogardo, Jr. of Regional Office No. 04, Department of Labor and the then Secretary of Labor Blas Ople. The alleged grievance consists of an order of reinstatement of private respondent with back wages issued by respondent Leogardo, Jr. upheld by respondent Ople. The facts show that a verified complaint for illegal dismissal from her position as Secretary was filed against petitioner corporation by private respondent. The complaint was duly docketed as LAS-T-IV-4880-76 and accordingly set for summary investigation. There was due notice to the manager of petitioner, as evidenced by a xerox copy of the official dispatch record of the telegraph office concerned. At the scheduled summary investigation of the case, complainant, now-private respondent, appeared. There was no appearance on the part of petitioner. The investigation took place with evidence offered by private respondent as to the fact of employment and her subsequent dismissal without prior clearance from the Department of Labor. The finding was that no such clearance was first obtained. The order of then Officer-in-Charge respondent Leogardo, Jr., to reinstate Imelda V.C. Haw, with back wages until she was back in her employment was then issued. Petitioner then filed an urgent motion for reconsideration of the order dated June 4, 1976, alleging lack of due process. Such motion was considered as an appeal and the matter was elevated to then Secretary of Labor, respondent Ople, who sustained the same. Hence this certiorari proceeding.

The allegation that under the above facts there was denial of due process is set forth thus in the petition: "It is of common knowledge and practice that during any stage of investigation or hearing in the Department of Labor whether by the mediator-conciliator or during the NLRC compulsory arbitration, that when any of the parties fail to appear during the initial hearing, the absent party is given another chance to appear and present his evidence. It is amazing, however, with due respect that respondents, O.I.C. Vicente Leogardo, Jr. and Secretary, Blas F. Ople should now deny the petitioner the chance afforded to others who also fail to attend the scheduled hearing, especially so, when such failure can be attributed to excusable negligence and when there is a valid and meritorious defense against the complaint" of private respondent.[1] It was further alleged that on the day of the scheduled hearing, the notice has not as yet been received by petitioner that led to its being declared in default. It was not given, to quote from the petition anew, "another chance to appear [contrary to] what is usually done in cases like this." [2]

In the Comment submitted by the Office of the Solicitor General, which was considered as the answer, such contention was refuted by including proof of petitioner having received notice a day before the scheduled

summary investigation.[3] Moreover, according to such Comment, "petitioner's imputation of having been denied due process is further negated by the fact that it filed a motion for reconsideration (Catura v. CIR, 37 SCRA 303; Demaronsing v. Tandayag, 58 SCRA 484). Petitioner could have easily established the lack of employer-employee relationship if such was really the case. But then petitioner herein, without more, cursorily denied, in a general manner at that, the existence of such a relationship. And, neither did the petitioner in its aforesaid motion intimate what evidence it intends to present, if granted another hearing, to offset private respondent's claim on the matter. Verily, it is apparent that petitioner herein does not seriously dispute said issue. Thus, the denial of its motion for reconsideration is merited not only by the supremacy of reason but likewise the dictates of justice." [4]

The dismissal of the petition is thus the only justifiable outcome. This conclusion becomes even more evident when it is duly noted that what is involved is security of tenure as protected by the Constitution.[5] In the latest decision in point, *Alzosa v. National Labor Relations Commission*, [6] this Court first cited *Philippine Air Lines Inc. v. Philippine Airlines Employees Association*. [7] Then it categorically stated: "This Court has since then consistently vitalized the guarantee of security of tenure." [8]

WHEREFORE, the petition is dismissed.

Makasiar, Concepcion Jr., Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., took no part.

[1] Petition, 5-6.

[2] *Ibid*, 6.

[3] Annex 1 to Comment.

[4] Comment, 6.

[5] According to Article II, Section 9, second sentence of the Constitution: "The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

[6] L-50296, February 14, 1983.

[7] L-24626, June 24, 1974, 57 SCRA 489.

[8] *Alzosa v. National Labor Relations Commission*, 3. Cf. *Almira v. B.F. Goodrich Philippines*, L-34974, July 25, 1974, 58 SCRA 120; *Central Textile Mills v. National Labor Relations Commission*, L-50150, May 3, 1979, 90 SCRA 9; *Genconsu Free Workers Union v. Inciong*, L-48687, July 2, 1979, 91 SCRA 311; *Acda v. Minister of Labor*, G.R. No. 51607, December 15, 1982; *Visperas v. Inciong*, G.R. No. 51299, December 29, 1982; *Bustillos v. Inciong*, L-45396, January 27, 1983.

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