

CEBU PORTLAND CEMENT COMPANY, PETITIONER, VS. PHILIPPINE LAND-AIR-SEA LABOR UNION, RESPONDENT.*G.R. No. L-4904. January 30, 1953*

Ponente: MONTEMAYOR, J.

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Petitioner is a Government owned corporation operating a cement factory in Naga, Cebu, with main office in Manila. The respondent Philippine Land-Air-Sea Labor Union (PLASLU) is a registered labor union with members working in the petitioning company. In 1948 the PLASLU had a case before the Court of Industrial Relations docketed as case No. 241-V against the cement company, involving certain labor grievances and demands. On June 2, 1949, the PLASLU filed in said case an incidental case No. 241-V (2) asking for the reinstatement of Carlos Flores and other employees mentioned therein, all members of the union, on the ground that they had been dismissed or suspended without just cause. After the company had filed its answer, it seems that the petition with respect to the other employees involved was abandoned and only the case of Carlos Flores was continued, the hearing of which was held in Cebu City in December, 1949, and in June, 1950. Atty. Silverio Q. Cornejo as Commissioner of the Court of Industrial Relations received the evidence for both parties.

On April 27, 1951, the Court of Industrial Relations (CIR) rendered its decision on the whole case No. 241-V and the incidental cases including case involving the reinstatement of Carlos Flores. We reproduce the last part of the decision which refers to him:

"The only question left for determination was whether Carlos Flores would be given back pay from the time he was suspended by the management on the ground that he became drunk in the morning May 22, 1949 in a barrio fiesta in Tinaan, Naga, Cebu. In the afternoon of the same day at about 3:25, on entering his office he had a verbal tussle with co-employee Falcon, Borja, for commenting that he despised the Cement Workers Union. When he reported for work in the company plant he was not allowed by his companions to work with the allegation that he was drunk, thereby a quarrel ensued between Porferio Resaba and Flores. Resaba assaulted Flores who sustained slight physical injuries as a result thereof. Against Resaba a complaint for slight physical injuries was filed by Flores before the justice of the peace court of Naga. After hearing he was convicted as aggressor as per Exhibit K showing clearly that Flores was aggrieved. On the strength of this evidence Flores was reinstated by the company on the suggestion of the commissioner of this court on July 1, 1950, at Cebu City. To show obedience and good faith to serve the company, Flores apologized orally and in writing to the manager on June 27, 1950 and that no malicious intent to commit wrong against the respondent. However, he is warned to abstain from the commission of similar act in the future, as the company may take more drastic action against him.

"The court noted that the aggressor, Resaba, was not penalized by the respondent company despite his conviction before the ordinary court of justice as a result of the incident. The court also noted that the difference in labor union affiliation between Flores and Resaba resulted to this injustice because Flores was a member of the PLASLU while Resaba was a member of the Cement Workers Union. Jealousy and rivalry between the two unions caused the trouble between them. It was very unfortunate that Flores, victim of

aggression was punished by the company despite the fact that Resaba was convicted by the court of Naga as above stated. The attitude taken by the division chief clearly showed partiality in penalizing Carlos Flores in that said incident. As per Exhibit K, the evidence was clear that Resaba was at fault, there was no better evidence than the findings of the trial court and no appeal was taken by Resaba to justify his stand.

"Because of this unfortunate incident, Flores was suspended indefinitely by the Division Chief Maramara who did not report the matter to the manager of the respondent company. Maramara arrogated to himself the absolute power and authority to drop Flores from the company's payroll which should not be the case. The step taken by the division chief hereof is very demoralizing to Flores and other employees if not immediately corrected. The company may take disciplinary action to curtail similar act of Maramara in the future.

"In the light of the foregoing, this court is of the opinion and so hold that the Cebu Portland Cement Company should pay to Carlos Flores his entire salary from the time he was suspended until reinstated to his work by the respondent."

The cement factory moved for the reconsideration of the decision above-quoted and upon denial of the motion, brought the case to this court for review thereof through certiorari. It will be noticed from the decision that the CIR finds as a fact that Carlos Flores was suspended by the management because he became drunk on May 22, 1949, as a result of which he had trouble with his co-workers and superiors in the cement plant which resulted in a fight between him and one Porferio Resaba in the course of which a slight physical injury was inflicted on Flores and for which Resaba was convicted in the justice of the peace court. In the same decision the Court of Industrial Relations, however, makes the erroneous conclusion that injustice was committed on Flores by punishing him with indefinite suspension while Resaba, the aggressor was not punished by the management. Because of this discrepancy between the findings and the conclusion of the trial court, we carefully examined the record of the case. From our examination we find that the suspension of Flores was due not to his fight with Resaba but to his having arrived at his post 25 minutes late and very drunk, and that when he was told by his co-workers and instructed by his superiors to go home and not to work because in his state of drunkenness he was liable to damage the very valuable and delicate instruments and equipment of the company under his charge, he not only refused to obey but created trouble in the plant, manhandling some of his co-employees, provoked Resaba to strike him and even insulted his superiors and his chief. Under the circumstances we find that his indefinite suspension was fully warranted. Furthermore, if the company agreed to reinstate him at all, it was because he asked for reinstatement and gave a verbal and written apology to his chief and to the general manager promising that what he had committed would not happen again, and also because the Commissioner representing the Court of Industrial Relations, during the hearing, gave the management reason that whether or not Flores was to receive pay during his suspension depended entirely upon the company. In this connection, it would appear that the company all the time maintained that it could not pay Flores during the time that he was suspended because his suspension was intended as a punishment for what he had done, and that later, considering his suspension as sufficient punishment it agreed to reinstate him as in fact it reinstated Flores with the same salary and to the same work on July 1, 1950, but without pay for the period of his suspension.

In view of the foregoing, the decision appealed from is hereby set aside insofar as it orders payment to Carlos Flores of his salary during the period of his suspension.

No costs.

Paras, C.J., Feria, Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

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