

NOLI G. ENRIQUEZ, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (2ND DIV.), AND PHILIPPINE MARITIME INSTITUTE RIZABEL CLOMA-SANTOS, RESPONDENTS.

Ponente: PERALTA, JR., E. B., J.

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PERALTA, JR., E. B., J.:

When both the Labor Arbiter[1] and the NLRC[2] were not persuaded by petitioner's theory of his illegal dismissal as Shipboard Training Officer of Philippine Maritime Institute, the Petition for Certiorari was elevated to Us to press the concept of illicit severance of his employment.[3]

Private respondent Philippine Maritime Institute (hereinafter referred to as PMI) was an educational institution which offered courses in Marine Engineering, Marine Transportation and Customs Administration and related disciplines.

Petitioner Noli G. Enriquez (hereinafter referred to as petitioner) joined the PMI sometime in 1978 as a faculty member. Through hard work and perseverance, he eventually became a regular teacher and was later designated as OIC and Shipboard Training Officer Director.[4]

On July 29, 1998, petitioner was appointed as Assistant Dean in the College of Marine Transportation of PMI.[5] For his services, petitioner received a gross monthly salary of P47,000.00. P23,000.00 as Assistant Dean and P24,000.00 as Shipboard Training Officer.

On October 19, 2001, petitioner was given teaching load assignments for the BSMT course for quite sometime[6] but he stopped teaching because he was already handling jobs as Shipboard Training Officer and Assistant Dean.

In March, 2006, representatives from the European Maritime Safety Agency (EMSA) conducted an audit of PMI facilities and it was discovered that there were deficiencies in the campus.

On September 26, 2008, the Commission on Higher Education (CHED) also conducted an audit of PMI's campus, which confirmed PMI's inadequacies.

Prodded by the thought that the deficiencies were due to petitioner's failure to do what was incumbent upon him as Shipboard Training Officer Director, the PMI, through its Human Resource Officer, ordered petitioner to correct the defects that were reported by the CHED and the EMSA, to no avail.

On May 25, 2011, the CHED informed PMI of its Resolution No. 092-2011 dated May 23, 2011, which directed the phase out of BSME and BSMT programs of PSMI beginning school year 2012-2013.[7]

Thus, in a Memorandum[8] to petitioner dated June 27, 2011, PMI advised petitioner that he will no longer be part of PMI Administrative Team as Shipboard Training Officer and OIC effective July 1, 2011.

On July 1, 2011, petitioner received another Memorandum[9] which confirmed his removal:

“This Office announces the following academic appointments effective 01 July 2011:

- Chief Mate Felipe B. Mague, Jr. - Dean, College of Maritime Affairs (replaces Capt. Rebusi)

- 2/M Melecio V. Bueno, Jr. -Director, Shipboard Training Office (replaces 2/M Enriquez)

*** nothing follows ***

All are requested to welcome both Chief Mate Mague and 2/M Bueno into the PMI community by extending their support and cooperation for what these gentlemen are tasked to do.

Thank you for your continued support of the PMI Colleges and warm regards.”

Consequently, on September 29, 2011, petitioner filed a Complaint[10] against private respondent PMI Colleges, Inc. and its President, Rizabel Cloma-Santos, for illegal dismissal, payment of damages and attorney's fees, docketed as NLRC NCR Case No. 00-09-14855-2011.

On May 8, 2012, Labor Arbiter Marita V. Padolina rendered a Decision[11] which dismissed the Complaint for illegal dismissal filed by petitioner:

“WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the complaint of illegal dismissal. However, respondent Philippine Maritime Institute College, Inc., is ordered to pay complainant nominal damages in the amount of Thirty Thousand Pesos (P30,000.00) in so far as the position of Technical Director is concerned.

Likewise, complainant is ordered to report back to work as faculty member/Assistant Dean as he was not terminated from said position.

SO ORDERED.”[12]

On June 13, 2012, petitioner appealed[13] the Decision of the Labor Arbiter to the NLRC, docketed as LAC No. 06-001773-12.

On August 31, 2012, the NLRC issued the assailed Resolution,[14] which agreed with the dismissal of petitioner’s appeal:

“WHEREFORE, premises considered, judgment is hereby rendered AFFIRMING the Labor Arbiter's Decision dated May 8, 2012.

SO ORDERED.”[15]

Petitioner moved for reconsideration of the aforementioned Resolution on September 19, 2012,[16] but his Motion was denied by the NLRC’s Resolution[17] dated November 16, 2012.

Dissatisfied, petitioner filed the instant Petition for Certiorari[18] anchored on the usual ascription of grave abuse of discretion:

“WITH DUE RESPECT, THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DECLARING THAT THE PRIVATE RESPONDENT WAS NOT ILLEGALLY DISMISSED.”[19]

We do not agree with petitioner’s major submission.

As a general rule, in certiorari proceedings under Rule 65 of the Rules of Court, the appellate court does not assess and weigh the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their conclusion. The query in this proceeding is limited to the determination of whether or not the NLRC acted without or in excess of its jurisdiction or with grave abuse of discretion in rendering its decision. However, as an exception, the appellate court may examine and measure the factual findings of the NLRC if these are not supported by

substantial evidence.[20]

When the Complaint for illegal dismissal was rejected, the Labor Arbiter did so since:

“To the mind of this Office, a just cause exists to remove complainant as a Training Director considering that for many years, as a director, he could have already helped and made recommendations or changes in the teaching standards of the institution, thus, leading to better students and quality graduates. Note that PMI failed to meet compliance with the CHED and STCW requirements consistently, thus, the phase out of Bachelor of Science in Marine Transportation and Bachelor of Science.”[21]

Corollary thereto, the NLRC also observed that:

“...complainant-appellant cannot deny his accountability for the unfavorable CHED Resolution. As can be gleaned above, his primary function involves making sure that respondent-appellee PMI's maritime degree program comply with the requirements of Standard of Training Certification and Watchkeeping (“STCW”) - i.e., to coordinate activities of instructors engaged in the training of syllabus of students in accordance with STCW-IMO requirements. On the other hand, the basis of the CHED Resolution is respondent-appellee PMI's “consistent failure to maintain compliance with CHED and STCW requirements.”[22]

Therefore, it was established that there was solid foundation for petitioner's dismissal. His failure to make recommendations or changes in the teaching standards of the institution during his stay as Training Director resulted in the issuance of CHED Resolution No. 092-2011 which directed the phase out of the BSME and BSMT programs of PMI.

In *Rural Bank of Cantilan, Inc. v. Julve*,[23] the Court had the occasion to summarize general jurisprudential guidelines affecting the right of the employer to regulate employment, including the dismissal of its employees:

“Under the doctrine of management prerogative, every employer has the inherent right to regulate, according to his own discretion and judgment, all aspects of employment, including hiring, work assignments, working methods, the time, place and manner of work, work supervision, transfer of employees, lay-off of workers, and discipline, dismissal, and recall of employees. The only limitations to the exercise of this prerogative are those imposed by labor laws and the principles of equity and substantial justice.

While the law imposes many obligations upon the employer, nonetheless, it also protects the employer's right to expect from its employees not only good performance, adequate work, and diligence, but also good conduct and loyalty. In fact, the Labor Code does not excuse employees from complying with valid company policies and reasonable regulations for their governance and guidance.”

Viewed in the light of the foregoing discussion, We are of the impression that both the Labor Arbiter and the NLRC found substantial evidence to justify the removal of petitioner as Shipboard Training Officer. As such, their factual findings are entitled to due respect.

However, it was beyond question that the termination of petitioner was effected without complying with the two-notice rule. To meet the requirements of due process in the dismissal of an employee, an employer must furnish the worker with two written notices: (1) a written notice specifying the grounds for termination and giving to said employee a reasonable opportunity to explain his side and (2) another written notice indicating that, upon due consideration of all circumstances, grounds have been established to justify the employer's decision to dismiss the employee.[24]

In *Agabon v. National Labor Relations Commission*,[25] the Supreme Court again underscored that where an employee was terminated for cause, but the employer failed to comply with the notice requirement, the employee will be entitled to the payment of nominal damages:

“The violation of the petitioners' right to statutory due process by the private respondent warrants the payment of indemnity in the form of nominal damages. The amount of such damages is addressed to the sound discretion of the court, taking into account the relevant circumstances. x x x We believe this form of damages would serve to deter employers from future violations of the statutory due process rights of employees. At the very least, it provides a vindication or recognition of this fundamental right granted to the latter under the Labor Code and its Implementing Rules.”

The Agabon doctrine enunciates the rule that if the dismissal was for just cause but procedural due process was not observed, the dismissal should be upheld. Where the dismissal is for just cause, as in the instant case, the lack of statutory due process should not nullify the dismissal or render it illegal or ineffectual. However, the employer should indemnify the employee for the violation of his right to procedural due process.[26]

WHEREFORE, premises considered, the Petition for Certiorari is hereby DISMISSED for lack of merit.

SO ORDERED.

De Leon, M.M., (Chairperson), and Cruz, S.C., JJ., concur.

[1] Decision dated May 8, 2012, Labor Arbiter Marita V. Padolina, Rollo, pp. 113-124.

[2] Resolution dated August 31, 2012 and Resolution dated November 16, 2012, Rollo, pp. 148-158, 163-164.

[3] Petition for Certiorari dated January 21, 2013, Rollo, pp. 3-19.

[4] See Rollo, page 35.

[5] See Letter dated July 29, 1998, Rollo, page 33.

[6] See Letter dated October 19, 2001, Rollo, page 34.

[7] See par. 14 of the Reply, Rollo, page 96.

[8] Memorandum No. 1106-003 dated June 27, 2011, Rollo, page 36.

[9] Memorandum dated July 1, 2011, Rollo, page 37.

[10] Complaint dated September 29, 2011, Rollo, pp. 21-22.

[11] Decision dated May 8, 2012, Rollo, pp. 113-124.

[12] Ibid.

[13] See Memorandum of Appeal dated June 11, 2012, Rollo, pp. 125-139.

[14] Resolution dated August 31, 2012, Rollo, pp. 148-158.

[15] See Resolution dated August 31, 2012, Rollo, page 157.

[16] Motion for Reconsideration, Rollo, pp. 159-162

[17] Resolution dated November 16, 2012, Rollo, pp. 163-164.

[18] Petition for Certiorari dated January 21, 2013, Rollo, pp. 3-19.

[19] See page 7 of the Petition for Certiorari, Rollo, page 9.

[20] Ramos v. BPI Family Savings Bank, G.R. No. 203186, December 04, 2013, citing Mercado v. AMA

Computer College-Parañaque City, Inc., G.R. No. 183572, April 13, 2010, 618 SCRA 218 and Protacio v. Laya Mananghaya & Co. G.R. No. 168654, March 25, 2009, 582 SCRA 417.

[21] See page 10 of the Decision dated May 8, 2012, Rollo, page 122.

[22] See page 9 of Resolution dated August 31, 2012, Rollo, page 156.

[23] G.R. No. 169750, February 27, 2007.

[24] Esguerra v. Valle Verde Country Club, G.R. No. 173012, June 13, 2012.

[25] G.R. No. 158693, November 17, 2004.

[26] Bughaw, Jr. v. Treasure Island Industrial Corp., G.R. No. 173151, March 28, 2008.

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