

**TIDE WATER ASSOCIATED OIL COMPANY, PETITIONER, VS.
VICTORY EMPLOYEES AND LABORERS; ASSOCIATION AND
ARSENIO C. ROLDAN, MODESTO CASTILLO, JOSE S. BAUTISTA, AND
JUAN L. LANTING, JU...**

G.R. No. L-2936. December 23, 1949

Ponente: REYES, J.

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REYES, J.:

On July 15, 1948, Guillermo Bautista was discharged from his position as checker in the Tide Water Associated Oil Co., and there being then pending in the Court of Industrial Relations a dispute between that company and its employees, the latter filed in the same proceedings a petition for his reinstatement, alleging that his dismissal was unjustified. The company opposed the petition, but the Industrial Court, after hearing, granted the same, and by final resolution ordered the company—

"to reinstate Guillermo Bautista to his former position as soon as possible, without entitling him to any back or arrears in pay, with the warning that the repetition of a similar act on the part of Bautista will be dealt with more severely."

In protest against this order, the company has brought the case here for review on the question of law raised in its petition, alleging that the order is contrary to law and constitutes a grave abuse of discretion.

The material facts as found by the Industrial Court are as follows:

"Guillermo Bautista, in whose behalf the petition was filed, was a checker of the respondent company for a period of eighteen years, more or less, and under the immediate supervision of Mr. McKenney and Evaristo Domingo. Aside from being a checker, Bautista was, at times, acting also as dispatcher of the respondent company. On July 14, 1948, Mr. Villareal, from the central office of the company, called Bautista by telephone instructing him to deliver 750 gallons of gasoline to one Concepcion, and, another 750 gallons to Aquilino Fernandez. Deliveries of gasoline to customers under the regulations and instructions of the respondent company, were made in accordance with the 'first come, first, served rule. On July 14, 1948, Concepcion's order was made ahead of Fernandez and pursuant, therefore, to the said rule, the delivery of gasoline must first be made to Concepcion and then to Fernandez. However, instead of making delivery first to Concepcion, Fernandez was given preference to receive the gasoline ahead of Concepcion. According to the record, the arrangement was made by Bautista with the knowledge of Evaristo Domingo, his superior, although it was denied by Domingo. Domingo's denial, however, could not merit belief in view of the adverse testimony of Bautista which was strongly corroborated by the testimony of Fernandez, who was proved to hold no grudge against Domingo.

"There could be no doubt that the switching of the two orders for the delivery of gasoline intended for Concepcion and Fernandez was made by Bautista, and such act was undoubtedly repugnant to the regulations of the respondent company. But the record also shows that the regulation of the company with respect to making deliveries and giving preference to those who come first were at times relaxed upon instruction of the

management. So, it could not be said that invariably the aforementioned regulations of the company were strictly in all occasions observed. Undoubtedly, Guillermo Bautista committed a misdeed when he made the switching of the two orders of gasoline, and for which he should suffer some kind of punishment. It should be noted, however, that Bautista, who is already fifty years old, had spent the best years of his life in the employ of the respondent and must have learned the routinary technique of the job he was holding. To dismiss him outright from the job in which he has become proficient by reason of his long experience would not only be severe and harsh under the circumstances but uncharitable and most unkind to the man whose life and labor were availed of by the respondent company during his best years. He was separated since July 15, 1948, a period long enough to make him realize the consequences of the wrong he had committed. Inasmuch as there was nothing shown, that prior to the commission of the offense, Bautista had been guilty of any other malfeasance or misfeasance in office, he is entitled to some degree of sympathy by reason of his long service in the company as well as by reason of the fact that his superior, Evaristo Domingo, who had knowledge of the act imputed upon him, had not, in any manner, shown his disapproval of the same. Exceptions to the rigid rules of the respondent company were made before by Bautista when told by the superintendent. With his separation from office since his dismissal on July 15, 1948, up to the present time, Bautista must have already undergone punishment sufficient and commensurate with the error he had done. The power of the Court of Industrial Relations to correct excessive punishment has been recognized by our Supreme Court in several decisions. In the present case, this Court declares the punishment excessive. However, a repetition of similar offense or the commission or omission of another will, of course, be dealt with strictly."

It would appear from the above findings of fact that the only fault attributed to Bautista was that, contrary to the company's policy of "first come first served," he had delivered gasoline to one customer ahead of another who had asked for it first. The lower court did not consider the fault serious, but the company would characterize it as a breach of trust justifying dismissal under article 300 of the Code of Commerce.

The power of the Industrial Court, in the settlement of labor cases, to reduce excessive punishments meted out to erring employees is not to be disputed, the same having been already recognized by this Supreme Court. The only question for us now to determine is whether the reduction of Bautista's penalty in the present case constitutes a grave abuse of discretion.

The company contends, in effect, that under article 300 of the Code of Commerce it had the right to discharge an employee for a breach of trust and that it was deprived of this right and, therefore, of the equal protection of the laws when the lower court refused to sanction Bautista's dismissal on that score. It appears, however, that, while the lower court declared that Bautista had done an act repugnant to company rules, yet it did not find him guilty of a breach of trust. Indeed, a ruling that Bautista was guilty of such a breach would have scant validity under the circumstances of the case, the lower court having found it to be a fact that what Bautista did was known to and apparently acquiesced in by his immediate superior, that the rule as to precedence in gasoline deliveries was not always adhered to by the management, and that exceptions to the same had been made before by Bautista upon instructions from the superintendent. In the circumstances, we believe the lower court was justified in characterizing the fault committed by Bautista as a mere violation of regulations not amounting to a breach of trust. And considering his long years of service in the company, his otherwise clean record, and the fact that what he did had apparently the tacit approval of his immediate superior, we cannot say that the lower court has gravely abused its discretion in ordering his reinstatement subject to the terms specified in its final resolution.

The order appealed from is therefore affirmed with costs against the petitioner.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Torres, JJ., concur.

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