

LAGUNA TRANSPORTATION EMPLOYEES UNION, ET AL., PETITIONERS, VS. LAGUNA TRANSPORTATION CO., INC., RESPONDENT.

G.R. No. L-23266. April 25, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The present appeal stemmed from a judgment of the Court of Industrial Relations (CIR), dismissing, after trial on the merits, petitioners' suit for unfair labor practice with reinstatement and back wages.

The case started with a complaint, as amended,[1] filed by CIR's prosecutor in behalf of herein petitioners Vicente Marfil, Pedro Alinsod, and Glicerio Artes, alleging that they were dismissed by respondent company [Marfil and Alinsod on June 30, 1958 and Artes on December 28, 1958] because they refused to heed its advice and warning to disaffiliate from petitioner union upon promises of salary increases and promotions, or face dismissal; that petitioner Alinsod, as a dis-patcher, was paid only P4 a day because of his militant union activities, while newly appointed dispatchers were given higher pay for being non-union members; and that respondent company refused to reinstate them notwithstanding demands. The petition categorized the foregoing actuations as unfair labor practices prescribed by Section 4 (a), sub-sections 1, 2, and 4 of Republic Act 875, otherwise known as the Industrial Peace Act. It winds up with the prayer that respondent company be ordered to cease and desist from further committing the acts complained of and to reinstate them with back wages.

Traversing the averments of the complaint, respondent denied the unfair labor practice charges, claimed just causes for the dis-missal of all the individual petitioners, and as to Artes, the added circumstance of absence of employer-employee relationship.

Certain facts are not in dispute. Individual petitioners are all members of the Laguna Transportation Employees Union, their co-petitioner. The union was registered and its Certificate of Registration No. 2091-IP was issued on April 3, 1957. A certification election was held in April, 1958 at Biñan, Laguna to ascertain whether or not the union deserved to be the exclusive bargaining agency for respondent's workers. The votes cast - 94 to 37 - overwhelmingly repudiated the union.[2]

Petitioners' evidence is typified by the testimony of petitioner Vicente Marfil which, so petitioners themselves state in their brief, "is representative of the testimonies of the other two petitioners, all the three corroborating each other." [3] Here is Marfil's version:

The union, as aforesaid, was registered on April 3, 1957. Respondent company was formally informed of the existence of that union by registered mail. Artemio Mercado, the company's assistant manager, dismissed him because of his membership in the union; his campaigning therefor; his refusal to disaffiliate even with the promise of increase in salary; and his efforts to reorganize the union after the certification election in April, 1958 inspite of the warning given by two officers of respondent company that "something" would happen to him.

Respondent company's evidence, upon the other hand, is summarized as follows:

Petitioner Vicente Marfil was employed as bus inspector assigned to the Alabang-Parañaque, Rizal line[4] and "sometimes when an inspector was sick, he was assigned at the Batangas line." [5] His duty it was to sign bus tickets. Also, he was to submit inspection reports every day, a duty which, at times, he failed to perform. His working time started at four o'clock in the morning. With his gambling activities which kept him up to two o'clock or two-thirty in the morning, it was no surprise to find him sometimes reporting for work late and drowsy. Instances there were when he checked in for work one to four hours late. Worse. He had been caught sleeping while on duty. These acts having been reported to respondent by its other bus inspectors, Marfil was investigated, was found really delinquent.

Petitioner Pedro Alinsod first worked as a driver with respondent corporation's predecessor, then doing business under the name "Laguna Transportation Company", a partnership. On December 19, 1955 while driving a truck of said partnership, a hold-up occurred, on which occasion he was shot and wounded by highway robbers, by reason of which he was hospitalized and unable to work for about five months. He claimed for, and was paid, workmen's compensation benefits. But his injuries disabled him from resuming his job as driver. Pleading for work, respondent company hired him in 1956 as an assistant dispatcher at the rate of P4 a day. He was separated from service because he was always out of his place of work.

The case of petitioner Glicerio Artes is quite different. In or before 1955, his job was that of a bus driver of the defunct partnership "Laguna Transportation Company". When said partnership was incorporated in 1956 into "Laguna Transportation Co., Inc.", Artes was not rehired. And this, because he was too old to be a driver - he was already 63 years old at the time he testified at the hearing of this case on March 4, 1960. Contrary to his claim that respondent took him in as dispatcher, he has not been reemployed by said company "in any capacity". In fact, he has not been seen in the company premises since the latter's incorporation in 1956.

With the conflicting evidence, a choice was forced upon CIR.

Came the decision. CIR Associate Judge Amando C. Bugayong, on December 11, 1963, gave judicial approval to respondent company's stand, directed the dismissal of the case.

A move to reconsider was thwarted by CIR en banc upon a 3-2 vote. The majority of CIR judges adopted the statement of Judge Bugayong that "the inevitable conclusion" is that "the preponderance of evidence tends to establish that the separation of herein complainants was for just cause and not due to union affiliation or activity."

To show the disconnection of individual petitioners' dismissal and their union activities, the CIR decision appealed from made the following observations:

(a) Individual petitioners have previously filed with the CIR three separate suits to recover alleged unpaid salaries, overtime pay, and separation pay against respondent company and four of its incorporators.[6] The filing of these suits, despite their dismissal on jurisdictional grounds, CIR says, "mitigates against the theory relied upon by herein complainants that their alleged dismissal or separation from employment had been due to their union affiliation or activities."

(b) The fact that other unionists more prominent than herein individual petitioners, like union president Domingo Antenor or union board member Leonardo Fortuno, are still in the service of the respondent company negates petitioners' claim that they were dismissed for their union activities.

(c) Petitioner union's defeat in the certification election held in April, 1958, despite petitioners' "very active" campaign, made the respondent company lose any and all motive to interfere with individual petitioners' right to

self-organization.

And now, to the issues herein involved.

1. Adverting to the conflicting versions, we find no difficulty in saying that there is substantial evidence in the record - testimony of witnesses - to support the judgment below.

As to petitioner Marfil, the evidence was that there were times when he failed to submit his inspection reports; that because he indulged in gambling up to early morning hours, sometimes he reported for work late and drowsy. He had been caught sleeping while on duty.

Petitioner Alinsod fared no better. The record bears out the fact that he was always out of his place of work. This is evidence of lack of cooperation, lack of interest in his job.

Dismissal on grounds ranging from absenteeism, inefficiency, laziness, to disobedience has been sanctioned by this Court.[7] Habitual drunkenness, giving free admissions in a theatre, negligence, and gossiping on duty are also valid causes for dismissal.[8] And so are stubborn behavior, discourtesy and uncooperative service, chasing employees with a piece of wood, sleeping while on duty, and immorality.[9] The case of petitioners Marfil and Alinsod easily comes within the broad sweep of the foregoing cases.

Petitioner Artes was too old to continue as a driver. This certainly was reason potent enough for respondent company which was then newly incorporated to refuse further his services. A common carrier cannot be compelled to maintain in its employ a driver who is physically unfit to perform his duties. Such a driver is truly a great risk. The life and limb of bus passengers should not be intrusted to the hands of an old man. In truth, respondent's act of eliminating Artes from the service is but in obedience to the legal mandate that "[a] common carrier is bound to carry the passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons, with a due regard for all the circumstances." [10]

Finally, when CIR found that petitioner Artes was never rehired "in any capacity" after respondent's incorporation, it brushed aside Artes' claim that he was a traffic dispatcher from 1956 to 1958. Dismissal from such position is his present complaint. Other than the fact that CIR's finding here is firm upon substantial evidence, Artes' testimony on this point actually borders on incredulity, absent any explanation in the record why respondent company should give him that rare privilege to report as "traffic dispatcher" from once to a maximum of four times a week only, as he testified below.[11] Not having been rehired, there is thus no employer-employee relationship to speak of. Petitioner Artes cannot be said to have been dismissed from an employment which never existed. This is certainly fatal to his unfair labor practice suit.[12]

2. Of course, petitioners, in disputing the findings below, submit that their evidence is "more than preponderant" to carry the day for them.

But in this review we are not supposed to be guided by the rule of preponderance of evidence; we are not to pass upon the weight of evidence.[13] For, a doctrine that has earned respect thru reiteration is that the "[f]indings on the weight of evidence by the Court of Industrial Relations are conclusive,"[14] even in the presence of conflicting evidence.[15] Our function is thus narrowed down to an inquiry as to whether the findings of fact are supported by substantial evidence. If they are, then CIR's judgment must be affirmed.[16]

Since - by substantial evidence - valid causes for dismissal exist, then no unfair labor practice may be tagged upon respondent company.[17]

For the reasons given, the judgment under review is affirmed. Costs against petitioners.

SO ORDERED.

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Bengzon, J.P., Zaldivar, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] CIR Case 2184-ULP, entitled “Laguna Transportation Employees Union, Glicerio Artes, Pedro Alinsod and Vicente Marfil, Com-plainants, vs. Laguna Transportation Co., Inc., Respondent.”

[2] See: Testimony of V. Marfil, Hearing of December 14, 1959, Tr., p. 46.

[3] Petitioners' Brief, p. 16.

[4] Tr., December 15, 1960, p. 11. Witness O.G. Cartesiano testified that “[h]is (Marfil's) line before was Alabang-Zapote line.” Tr., July 31, 1961, p. 11.

[5] Tr., December 15, 1960, p. 23.

[6] a. CIR Case 1192-V, entitled “Pedro Alinsod, Petitioner, vs. Laguna Transportation Co., Inc., et al., Respondents” filed on February 19, 1959.

b. CIR Case 1193-V, entitled “Vicente Marfil, Petitioner, vs. Laguna Transportation Co., Inc., et al., Respondents” filed on February 19, 1959.

c. CIR Case 1196-V, entitled “Glicerio Artes, Petitioner, vs. Laguna Transportation Co., Inc., et al., Respondents” filed on February 24, 1959

[7] Caltex (Philippines) Inc. vs. Philippine Labor Organization, L-9915, May 27, 1959, citing Philippine Sheet Metal Workers' Union vs. Court of Industrial Relations, 83 Phil. 453, 458.

[8] Cinema, Stage & Radio Entertainment Free Workers vs. Court of Industrial Relations (1966), 18 Supreme Court Reports, 1068, 1070.

[9] The Management of El Hogar Filipino Mutual Building & Loan Association vs. Building Employees Association, L-9740, March 30, 1960.

[10] Article 1755, Civil Code of the Philippines.

[11] Tr., March 4, 1960, pp. 14-15.

[12] Sanchez vs. Court of Industrial Relations, L-19000, July 31, 1963. See also: Compañia Maritima vs. Allied Free Workers' Union (1967), 19 Supreme Court Reports 259.

[13] East Asiatic Co., Ltd. vs. Court of Industrial Relations (1966), 16 Supreme Court Reports 820, 822.

[14] Union of the Philippine Education Employees vs. Philippine Education Co., 91 Phil. 93, 101; Ormoc Sugar Co., Inc. vs. OSCO Workers Fraternity Labor Union, L-15826, January 23, 1961; Lu Do & Ym Corporation vs. Philippine Land-Air-Sea Labor Union, L-18450, May 29, 1964.

[15] Barnachea vs. Tabigne (1966), 20 Supreme Court Reports 29, 32.

[16] Id., pp. 31-32.

[17] Ormoc Sugar Co., Inc. vs. OSCO Workers Fraternity Labor Union, *supra*.

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