

PHILIPPINE AIRLINES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, LUCIO ZABAYLE AND JOSE TINIO, RESPONDENTS.

G.R. No. 106374. June 17, 1993

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This petition for certiorari, with prayer for the issuance of a temporary restraining order, seeks to annul and set aside the Resolution of 17 February 1992[1] of respondent National Labor Relations Commission dismissing the appeal from the Decision of 15 December 1989[2] of the Labor Arbiter as well as its Order of 27 July 1992[3] denying reconsideration.

The Labor Arbiter declared illegal the dismissal by petitioner Philippine Airlines (PAL), Inc., of private respondents Lucio Zabayle and Jose Tinio and consequently ordered their reinstatement as well as the payment of backwages.

On 4 May 1988, at about 8:00 o'clock in the evening, Michael Beldad, a security guard employed by petitioner airline, witnessed respondent Zabayle loading several bottles of whiskey and some cigarettes into a taxi parked near the Passenger Services Department, Inflight Center (IFC), Pasay City. Zabayle was assisted by Martin Cantiller, a messenger of the Flight Attendants' and Stewards' Association of the Philippines (FASAP), to which Zabayle was affiliated.

Beldad approached Cantiller and informed him that it was against company policy to bring out liquor and cigarettes without an out-gate pass but he was allegedly ignored.[4] Beldad then alerted his companions at the monitoring station who in turn called the gate guards to inspect the taxi ridden by Zabayle and Cantiller. True enough, the taxi was stopped by the gate guards and inspected. Since Zabayle failed to produce an out-gate pass, he was requested to proceed to the Security Office within the IFC to fill out an interception report.

In the meantime, Cantiller went to the FASAP union office where he met respondent Tinio and relayed the incident. Tinio immediately dialed for assistance from the elements of the CAPCOM before going to the Security Office with two (2) other union members.

Upon arrival at the Security Office, Tinio introduced himself as a FASAP adviser and angrily confronted Jimmy Sibbaluca, the Chief Security Officer. Tinio questioned the detention of Zabayle and demanded to talk with Daniel Pido, PAL's Director for Cabin Services or with Mila Abad, the Vice President for Passenger Services. But the guards told him they could not be contacted. Moments later, the elements of the CAPCOM arrived and Zabayle was thereafter released from the Security Office without having signed the requisite interception report.

Subsequently, Zabayle and Tinio were administratively charged for various offenses ranging from breach of security to insubordination, withholding of cooperation, disrespect of authority, abuse of authority, maltreatment of colleagues and subordinates, discourtesy, and serious misconduct.

After due notice and hearing, respondents Lucio Zabayle and Jose Tinio were dismissed by petitioner airline, prompting them to file a complaint for illegal dismissal, with prayer for reinstatement and payment of backwages.

The Labor Arbiter ruled in favor of private respondents and ordered their reinstatement and payment of backwages from 2 February 1989, the date they were declared illegally dismissed from service. This was affirmed by respondent Commission. Hence, the filing of instant petition.

A cursory reading of the petition for certiorari shows that it merely raises questions of fact, i.e., the proper appreciation of the events that transpired that eventful day of 4 May 1988. PAL vehemently argues that the acts of private respondents constituted serious misconduct; both the Labor Arbiter and the NLRC ruled otherwise.

It is well-settled that findings of fact of the Labor Arbiter which are affirmed by respondent Commission are binding on this Court.[5] After all, reviews of labor cases are merely confined to questions of jurisdiction and/or grave abuse of discretion.[6]

Nonetheless, even on the merits, PAL failed to sufficiently show that respondent Commission gravely abused its discretion in concluding that there was illegal dismissal in the case at bar.

First. As petitioner airline itself admitted, there were no stolen goods involved.[7] The bottles of whiskey and the cigarettes brought out of the IFC belonged to Zabayle and were not properties of petitioner airline.

Second. The events that transpired on 4 May 1988 which gave rise to the controversy, i.e., the alleged introduction of "armed civilians," as petitioner airline would put it, in what was otherwise an internal affair; the verbal altercation between Tinio and Sibbaluca; and, the failure of Zabayle to sign an interception report, all stem from the failure of PAL to properly disseminate its security policies and procedures to all its employees.

Both respondents were never aware of the rule relating to the out-gate pass and interception report prior to 4 May 1988. It was only on 29 October 1989,[8] or during the pendency of the case before the Labor Arbiter, that they learned of the existence of such rule. Incidentally, PAL did not attempt to refute or controvert this evidence.

Respondent Zabayle therefore cannot be said to have violated any of petitioner airline's security policies and procedures when he attempted to bring out of the IFC bottles of whiskey and some cigarettes without first securing the necessary out-gate pass because he was never informed of any rule to that effect. As a matter of fact, even PAL's other cabin crew members were similarly not aware of this requirement until after the incident.

Neither can respondent Tinio be faulted for introducing "armed civilians" into the fray. When he was informed that Zabayle was being detained at the Security Office, he had every reason to believe that another cabin crew member was being unduly harassed by the security guards because this was not the usual process and was highly irregular. Indeed, the Labor Arbiter found that there were previous incidents of harassment against some members of the cabin crew.[9]

Consequently, in his capacity as a union officer, Tinio dialed for assistance from the CAPCOM because he perceived that Zabayle was being detained illegally.

Third. The security guards employed by petitioner airline failed to uniformly apply the rules thereby causing confusion. Their interpretation of the security procedures varied as reflected in their respective testimonies[10]. There was no consistency in the application of the security policies and procedures. A misunderstanding on the implementation of the rule relating to the out-gate pass and interception report was therefore inevitable as what actually ensued in the case at bar. And, to compound matters, respondent Commission noted that at times the security guards were simply overbearing in their behavior.[11]

Of course, respondent Tinio's actuations in shouting invectives at the Chief Security Officer and uttering offensive

remarks against his superiors cannot be countenanced. Neither can Zabayle's failure to heed the call of Beldad to first secure an out-gate pass be ignored. But, considering that Tinio's service with petitioner airline already spanned more than 22 years at the time of the incident while that of Zabayle reached 20 years, the penalty of dismissal was too harsh and disproportionate to the infractions committed specially since these were their very first.[12]

Petitioner airline further argues in the alternative that should the Court affirm the finding of illegal dismissal, respondents should no longer be ordered reinstated because of loss of confidence. Instead, PAL considers the payment of separation pay appropriate. This is not tenable.

The infractions of private respondents were not related to the positions they held. Rather, they arose as a result of a misunderstanding of PAL's security measures. The unfelicitous remarks uttered by respondent Tinio against his supervisors were made in the heat of anger. He was already punished for it; as was Zabayle for his offense. It must be stressed that both private respondents were placed under preventive suspension from the moment they were administratively charged up to the time they were ordered dismissed.

There being a finding of illegal dismissal, respondents are entitled to reinstatement.[13] Such finding of illegal dismissal warrants not only reinstatement but also the payment of backwages computed for three (3) years only,[14] and not from 2 February 1989 when they were unlawfully dismissed. This is because the dismissal of private respondents transpired before the effectivity of R.A. 6715 on 21 March 1989.[15]

ACCORDINGLY, except as herein modified, the Resolution of 17 February 1992 of the National Labor Relations Commission is AFFIRMED. The temporary restraining order heretofore issued is LIFTED.

Costs against petitioner.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Quiason, JJ., concur.

[1] Annex "A", Petition; Rollo, pp. 36-49.

[2] Annex "C", Petition; Rollo, pp. 52-67.

[3] Annex "B", Petition; Rollo, pp. 51-52.

[4] Petition, p. 4; Rollo, p. 5.

[5] *Canlubang Security Agency Corporation v. National Labor Relations Commission*, G.R. No. 97492, 8 December 1992.

[6] *Aboitiz Shipping Employees Association v. National Labor Relations Commission*, G.R. No. 78711, 27 June 1990, 186 SCRA 825.

[7] Annex "A", Petition, p. 11; Rollo, p. 47.

[8] Comment, p. 6; Rollo, p. 74.

[9] Annex "C", p. 10; Rollo, p. 62.

[10] Annex "C", pp. 11-13; Rollo, pp. 63-65.

[11] See Note 7.

[12] PT& T v. National Labor Relations Commission, G.R. No. 80600, 12 March 1990, 183 SCRA 451.

[13] China City Restaurant Corporation v. National Labor Relations Commission, G.R. No. 97196, 22 January 1993.

[14] Spartan Security & Detective Agency, Inc., v. National Labor Relations Commission, G.R. Nos. 90963 & 93961, 3 September 1992.

[15] Maranaw Hotels and Resorts Corporation v. Court of Appeals, G.R. No. 103215, 6 November 1992.

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