

JUAN P. VILLEN0, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, FOURTH DIVISION, SULPICIO LINES, INC., AND/OR SIXTO ORIG AND CARLOS GO, RESPONDENTS.

G.R. No. 108153. December 26, 1995

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Petitioner Juan P. Villeno was employed on 29 December 1961 as electrician in one of the vessels of private respondent Sulpicio Lines, Inc. Twenty-seven (27) years later he was separated from the service under circumstances which will be discussed hereunder.

The focal issue before us is whether petitioner's dismissal from the service is justified under the law.

On 16 December 1988 M/V Sulpicio Container XI after leaving the port of Cebu for Manila was forced to return due to the death of the purser on board. Upon reaching port, the crew members were instructed not to leave the vessel as it would pursue its voyage immediately after turning over the body to the proper authorities. The ship's cook however was granted permission upon his request to leave the vessel to buy additional foodstuff for their provisions. The petitioner on the other hand, without seeking permission, left the vessel purportedly to settle a marital problem. Before leaving he disconnected the ship's steering line cable so that the vessel could not leave port without him. His explanation was that he wanted to prevent pranksters from toying around with the steering wheel as what had happened in the past.

According to petitioner, when he returned to the port thirty (30) minutes later, the ship was only a few inches away from the wharf but was prevented by a representative of respondent corporation from boarding the vessel. It turned out that the vessel had hired another electrician to reconnect the steering line cable. The consequence of petitioner's actuation was that the departure of the vessel was further delayed.

Petitioner was investigated the following day by Atty. Sixto Orig, private respondent and personnel officer of respondent shipping lines. Petitioner was assisted by a representative of the Philippine Labor Federation. In that investigation he admitted having disconnected the steering line cable.

After evaluation of the evidence he was found guilty of intentionally sabotaging the operation of the vessel, a serious misconduct, compounded by willful disobedience justifying the penalty of dismissal.

On 27 February 1989 petitioner filed a complaint against private respondents before Regional Arbitration Branch No. VII, NLRC, Cebu City, for illegal dismissal.

After hearing the Labor Arbiter ruled that petitioner was indeed guilty of misconduct but found the penalty of dismissal harsh considering that there was no evidence showing that petitioner intended to sabotage the voyage of the vessel. Besides, for the duration of his long years of service, it was his first offense. Hence on 30 July 1992 judgment was rendered ordering respondent corporation to pay petitioner P64,071.00 as separation pay in lieu of reinstatement since it was apparent that the relationship between the parties had been strained, P56,952.00 as back

wages for two (2) years only since he was also at fault, and P12,102.30 as attorney's fees. The case against the other private respondents was dismissed for lack of merit.[1]

On appeal public respondent National Labor Relations Commission (NLRC) held that the circumstances that petitioner had been employed by respondent corporation for a long period of time and that it was his first offense were not by themselves sufficient to warrant mitigation of the consequences of his serious misconduct. What were material were the facts that he disembarked from the vessel despite explicit instruction to the contrary, and he disconnected the steering line cable so that the vessel could not leave, which in the context of respondent corporation's business could not be tolerated. Thus, in its decision of 10 November 1992 the NLRC reversed the decision of the Labor Arbiter and dismissed the complaint.[2]

The crux of the controversy now is whether petitioner's act of disconnecting the steering line cable and disembarking from the vessel without permission constitute serious misconduct and willful disobedience justifying his dismissal.

Petitioner argues that although his reason for disconnecting the steering line cable was personal yet it was highly commendable since he was concerned with family unity. In addition, the disconnection was done to protect the vessel from pranksters who in the past would play with the steering wheel. By terminating his services respondent corporation thus set to naught his twenty-seven (27) years of service, completely ignoring the fact that it was his first offense. He claims that the delay he caused to the vessel was almost nil considering that it took him only thirty (30) minutes to return as compared to the delay that the voyage had already incurred.

We find these propositions of petitioner unacceptable. Among the basic duties of an employee are to conduct himself properly and to yield obedience to lawful orders of his employer. It is in this regard that serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work is a just cause for his termination. This is explicitly provided under Art. 282, par. (a), of the Labor Code. The misconduct must be related to the performance of his duties and of such grave character rendering him unfit to continue working for the employer. As regards willful disobedience, we stated in *San Miguel Corporation v. Ubaldo*[3] that at least two (2) requisites must concur: (1) the employee's assailed conduct must have been willful or intentional, the willfulness being characterized by a "wrongful and perverse attitude;" and, (2) the order violated must have been reasonable, lawful, made known to the employee and must pertain to the duties which he had been engaged to discharge.

Consequently, we sustain the NLRC in holding that petitioner was guilty of serious misconduct and willful disobedience —

x x x x Granted that his act was without malice or willful intent to cause damage, this does not excuse him for putting his personal interests over that of his employers in the sense that he x x x unnecessarily disrupt(ed) and prejudice(d) the normal operations of respondent to attend to personal matters. No amount of good faith or lack of intention to cause damage can diminish the degree of responsibility of complainant for his actuations x x x x[4]

Moreover, had petitioner simply complied with the directive not to leave the vessel there would have been no occasion for pranksters to tinker with the steering wheel. As respondent NLRC rationalized —

We agree with respondent that condoning complainant's actuations may send out wrong signals and erode the discipline needed to ensure that respondent can fulfill its duty to exercise extraordinary diligence in the performance of its obligations. Certainly, that an act of one employee can disrupt or prevent the departure of its vessel is enough cause for concern x x x x[5]

By disconnecting the steering line cable before disembarking, petitioner must have deluded himself into believing

that he was the master in command of the vessel and that during his absence the vessel should be immobile. His lack of concern for his employer's interests or for his responsibility towards his employer was plainly exhibited by these additional circumstances noted by the NLRC —

We are aware of the inconvenience and discomfort caused to passengers by delays. In the case at bar, it is bad enough that the vessel had to return to port; but to further delay the voyage because complainant wants to talk to his wife is pathetic. Complainant was important to the vessel's complement. The vessel's cook showed more prudence and concern because before he disembarked, he sought permission. Besides the cook's purpose was for the interest of the vessel x x x x Despite his position, complainant did not see fit to ask permission before leaving the vessel to attend to his personal business. Complainant should have thought of the situation of the vessel x x x before he disembarked. At the very least, he could have informed his superiors of his intentions so that remedial measures can be undertaken x x x [6]

Will the fact that petitioner had served his employer for twenty-seven (27) years without committing any infraction of company rules play a crucial role in determining his liability? In *Stanford Microsystems, Inc. v. NLRC*[7] where the employee was found guilty of a serious breach of company rules, the Court ruled -

x x x x The offenses cannot be excused upon a plea of their being 'first offenses,' or have not resulted in prejudice to the company in any way. [That] no employer may rationally be expected to continue in employment a person whose lack of morals, respect and loyalty to his employer, regard for his employer's rules, and appreciation of the dignity and responsibility of his office, has so plainly and completely been bared.

Along the same vein the Court ruled in *Colgate-Palmolive Philippines, Inc. v. Ople*,[8] which also involved serious violation of company rules and regulations by the employee —

x x x x Where the totality of the evidence was sufficient to warrant the dismissal of the employees the law warrants their dismissal without making any distinction between a first offender and a habitual delinquent. Under the law, respondent Minister is duly mandated to equally protect and respect not only the labor or workers' side but also the management and/or employers' side. The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer x x x x

In *Philippine Long Distance Telephone Company v. NLRC*,[9] where the employee was found guilty of having demanded and received from complainants a certain sum of money in consideration of her promise to facilitate approval of their application for telephone installation, the Court enunciated the rule that —

x x x x The fact that she has worked with the PLDT for more than a decade, if it is to be considered at all, should be taken against her as it reflects a regrettable lack of loyalty that she should have strengthened instead of betraying during all of her 10 years of service with the company. If regarded as a justification for moderating the penalty of dismissal, it will actually become a prize for disloyalty, perverting the meaning of social justice and undermining the efforts of labor to cleanse its ranks of all undesirables.

It may be observed that in subsequent cases the Court has set aside the penalty of dismissal and found it drastic for minor infractions, first violations and length of service. In *Mary Johnston Hospital v. NLRC*,[10] where the employee had a heated argument with the department head, the Court held that since the incident was her first offense during her seventeen (17) years of employment the penalty of termination was not commensurate with the act committed. In *Manila Electric Company v. NLRC*,[11] where the employee was declared guilty of breach of trust and violation of company rules the penalty of dismissal was not meted to him considering his twenty (20) years of service without any previous derogatory record and his two (2) commendations for honesty from the company. In *Philippine Telegraph and Telephone Corporation v. NLRC*,[12] where the employee was adjudged

guilty of tampering a receipt, the Court ruled that the imposition of the supreme penalty of dismissal would certainly be very harsh and disproportionate to the infraction committed, especially after noting that it was his first offense after seven (7) long years of satisfactory service. In *Dolores v. NLRC*,^[13] where the employee absented herself without permission from her superior, the Court ruled that the penalty of dismissal was too severe considering her twenty-one (21) years of service with the company and it appearing that it was her first offense. In *Radio Communications of the Philippines, Inc. v. NLRC*,^[14] where the employee was found guilty of misappropriating company funds and withholding messages for transmission, the Court ruled that in view of the employee's continuous service of ten (10) years with the company the penalty of dismissal for the minor infractions would be unduly harsh and grossly disproportionate. In *Bonotan v. NLRC*,^[15] where the employee shouted at the operations manager, the Court ruled that since the employee has been with the company for twenty-six (26) years and nowhere in the records did it appear that she committed any previous violation of company rules and regulations, dismissal from work would be too severe a penalty under the circumstances. And in *Tanduary Distillery Labor Union v. NLRC*,^[16] where the employees were found guilty of eating while at work, the Court ruled that inasmuch as they had served the company without any record of violation or infraction of company rules and regulations prior to the incident for periods ranging from sixteen (16) to twenty-six (26) years, respectively, the dismissal meted out on them was too harsh a penalty.

However, an examination of these cases reveals that the number of violations and length of service became relevant because the infractions were minor. Consequently, these have no bearing to the case at bench where the infractions involved were serious. In other words, considerations of first offense and length of service are overshadowed by the seriousness of the offense. As to whether an offense is minor or serious will have to be determined according to the peculiar facts of each case. And to a shipping company engaged in the transportation of passengers and cargoes any delay of its vessels may greatly affect its business and reputation and expose the company to unmitigated lawsuits for breach of contract and damages.

The Labor Arbiter appears to have soft-pedalled the gravity of the misdeeds committed by petitioner and instead relied heavily on considerations of first offense and length of service in ruling for petitioner. We find this wrong and hold that the NLRC did not commit any grave abuse of discretion in dismissing petitioner's complaint.

WHEREFORE, finding no grave abuse of discretion and for lack of merit, the petition is DISMISSED. The decision of public respondent National Labor Relations Commission dated 10 November 1992 is AFFIRMED.

SO ORDERED.

Padilla, (Chairman), Kapunan, and Hermosissima, Jr., JJ., concur.

Davide, Jr., J., see dissenting opinion.

[1] Rollo, p. 19.

[2] *Id.*, p. 26.

[3] G.R. No. 92859, 1 February 1993, 218 SCRA 293.

[4] Rollo, p. 23.

[5] *Id.*, p. 25.

[6] *Id.*, pp. 25-26.

[7] G.R. No. 74187, 28 January 1988, 157 SCRA 410.

- [8] G.R. No. 73681, 30 June 1988, 163 SCRA 323.
- [9] G.R. No. 80609, 23 August 1988, 164 SCRA 671.
- [10] G.R. No. 73839, 30 August 1988, 165 SCRA 110.
- [11] G.R. No. 78763, 12 July 1989, 175 SCRA 277.
- [12] G.R. No. 80600, 21 March 1990, 183 SCRA 451.
- [13] G.R. No. 87673, 24 January 1992, 205 SCRA 348.
- [14] G.R. No. 102958, 25 June 1993, 223 SCRA 656.
- [15] G.R. No. 104321, 25 October 1994, 237 SCRA 717.
- [16] G.R. No. 73352, 6 December 1994, 239 SCRA 1.

DISSENTING OPINION

DAVIDE, JR. J.:

I beg to register a dissenting vote.

I very respectfully submit that the dismissal from the service is too harsh a penalty to be imposed upon the petitioner for a first offense during his twenty-seven (27) years of faithful service to the private respondent. It must be stressed that no serious damage was incurred by the private respondent, and its vessel was still able to leave on time.

The decision of the Labor Arbiter is more in accord with the facts and with justice and equity.

ACCORDINGLY, I vote to GRANT the petition, SET ASIDE the challenged decision of the National Labor Relations Commission and REINSTATE the decision of the Labor Arbiter of 30 July 1992.

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