

**HILARIO VALLENDE, MARIO J. ESPARTERO, BENJAMIN R. BETITO,
LARRY DORMIDO, ROGELIO ALVAREZ, THELMO MORIN, AMER
TINOSAN, ALAN CRISTALES, EDWIN TOLENTINO, AND EVELINO
DAGLE, PETITIO...**

G.R. No. 110321. July 07, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for certiorari which seeks to annul and set aside the Decision dated March 30, 1993 of the National Labor Relations Commission (NLRC), which affirmed the Decision dated November 18, 1992 of the Labor Arbiter finding that petitioners were validly dismissed for loss of trust and confidence.

We dismiss the petition.

I

Petitioners were employees of respondent Top Center Processing, Incorporated (Top Center) which was engaged in buying, processing and exporting of prawns. Petitioners belonged to the Charlie Team harvest crew whose duties were to sort out the prawns after harvest according to size and weight, pack and crate them to be transported to the Top Center processing plant in Bago City, Negros Occidental. The prawns, which do not meet the standards for packing, were placed in a separate chilling box and also sent to the processing plant.

In August 1991, Top Center received information that pilferages were being committed by some harvest crews by replacing the calibrated weighing scale it provided with a defective one, resulting in two-to-three kilos excess for every 25 kilos of prawns weighed. On August 5, 1991, a memorandum was issued by Top Center to all its workers warning them that it had knowledge of the pilferages.

On December 29, 1991, petitioners, except Pablito Jimenez, harvested prawns from the farm of Benjamin Salvador.

On January 10, 1992, petitioner Amer Tinosan went to the Top Center office to claim his salary for December 16-31, 1991. Tinosan, however, discovered that his salary had been withdrawn by co-petitioner Larry Dormido, allegedly upon his written authorization. Tinosan denied such authorization. Upon investigation by the plant superintendent, Elizer Balbin, Dormido admitted that he did it upon the instructions of petitioner Mario Espartero, the chief of the Charlie Team. In that investigation, Tinosan informed Balbin that he was resigning because some members of the harvest crew were after him for his failure to deliver to them their share in the sale of prawns they had pilfered during their harvest of Benjamin Salvador's farm on December 29, 1991.

On January 12, 1992, petitioners Evelino Dagle, Edwin Tolentino and Alan Cristales came to Balbin's office and complained that they were no longer fetched by the company vehicle during the harvest. When Balbin mentioned the incident on December 29, 1991, the three petitioners volunteered additional information regarding the

pilferage. Balbin then went to the plant site at Calunangan, Bago City and prepared a memorandum suspending all members of the Charlie Team pending investigation of the incident. A report was rendered by Balbin to the management regarding the information he received and the action he had taken.

On January 16, 1992, petitioners were ordered to explain in writing within 48 hours why they should not be dismissed for gross misconduct.

On January 29, 1992, petitioners were formally investigated and given the opportunity to dispute the charges against them.

On February 7, 1992, petitioners received notices of termination from Top Center's personnel manager. As a result thereof, petitioners filed separate cases for illegal dismissal, underpayment of wages and non-payment of their overtime, service incentive leave, night shift differential and separation pay against Top Center and its manager, Jose Sepulveda with the NLRC Regional Arbitration Branch No. VI, Bacolod City. All these cases were consolidated.

On November 18, 1992, the Labor Arbiter rendered its decision, the dispositive portion of which reads:

"WHEREFORE, PREMISES CONSIDERED, respondents TOP CENTER PROCESSING, INCORPORATED and JOSE SEPULVEDA, manager, are hereby ordered to reinstate complainant PABLITO JIMENEZ to his former position without loss of seniority and other rights and with back wages, without qualification and deduction in the amount of TWENTY FOUR THOUSAND SEVEN HUNDRED SEVENTY ONE AND 53/100 (P24,771.53).

"All other claims are hereby ordered dismissed for lack of merit" (Rollo, p. 49).

On March 30, 1993, NLRC rendered its decision affirming the Labor Arbiter's decision. A motion for reconsideration was filed by petitioners but this was dismissed by NLRC in a resolution dated April 29, 1993.

Hence, this petition wherein the main issue to be resolved is whether NLRC committed grave abuse of discretion in finding that petitioners were validly dismissed on the ground of lack of trust and confidence.

Petitioners claim that the report on their alleged involvement in the pilferage of prawns has not been substantiated by the evidence, hence, there was no basis for imputing charges of theft against them.

Factual findings of quasi-judicial agencies, like NLRC, which have acquired expertise because their jurisdiction is confined to specific matters, are generally accorded not only respect but at times even finality when such findings are supported by substantial evidence. The truth or falsehood of alleged facts is not for the Supreme Court to re-examine. The probative value of the evidence presented by the parties may no longer be inquired into. This Court shall exercise its powers of review only when the inference or conclusion arrived at is manifestly erroneous (*Sunset View Condominium Corporation v. National Labor Relations Commission*, 228 SCRA 466 [1993]).

We agree with the findings of the Labor Arbiter and NLRC that there was sufficient evidence to show that petitioners committed the pilferage. It is not disputed that the information as to how the prawns were pilfered came from petitioners Amer Tinosan, Alan Cristales, Edwin Tolentino and Evelino Dagle, who did so on their own free will and volition. The details by which the pilferage was committed can only be supplied by one who was also involved in the anomaly.

"Loss of confidence as a ground for dismissal does not entail proof beyond reasonable doubt of the employees' misconduct. It is enough that there be 'some basis' for such loss of confidence or that 'the employer has reasonable grounds to believe, if not to entertain the moral conviction that the employee concerned is responsible for the misconduct and that the nature of his participation therein rendered him absolutely

unworthy of trust and confidence demanded of his position" (Dole Philippines, Inc. v. National Labor Relations Commission, 123 SCRA 673 [1983]).

Petitioners asseverate that they were not furnished a copy of the supplemental position paper with annexes by the Top Center, which resulted in a denial of their opportunity to present their side of the controversy.

We have held in *Sunset View Condominium Corporation, supra*, that "the essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, xxx an opportunity to seek a reconsideration of the action or ruling complained of" (at p. 472).

The failure of Top Center to furnish petitioners a copy of the supplemental position paper with annexes was not fatal as to invalidate the decision of the Labor Arbiter. Article 221 of the Labor Code provides that "(i)n any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure, all in the interest of due process." Besides, this defect was cured when petitioners were allowed to appeal from the decision of the Labor Arbiter and later to file a motion for reconsideration with NLRC (*General Milling Corporation v. Torres*, 196 SCRA 215 [1991]).

WHEREFORE, the petition is DISMISSED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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