

INTERNATIONAL SCHOOL OF SPEECH AND/OR WILMA CRUZ TAPALLA, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND MA. CORAZON D. MAMUYAC, RESPONDENTS.

G.R. No. 112658. March 16, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

The instant case was precipitated by a complaint, dated April 18, 1990, filed by private respondent Ma. Corazon D. Mamuyac against petitioners International School of Speech and/or Wilma Cruz Tapalla, charging the latter with unfair labor practice; illegal deduction; non-payment of wages, overtime pay, legal holiday pay, premium pay for holiday and rest day; and violation of Presidential Decrees Nos. 525, 851 and 928. [1]

On June 20, 1990, petitioners filed a counter-complaint charging private respondent with abandonment and violation of contract, with a prayer for P150,000.00 as actual damages, P50,000.00 as moral damages and P50,000.00 for exemplary damages. [2]

It appears that sometime in June, 1989, private respondent was hired as an English teacher paid on an hourly basis, and she served as such up to March 15, 1990. She avers that petitioners committed acts constitutive of unfair labor practice, that is, by preventing employees of the school from socializing with each other for fear that a labor organization might be formed, not furnishing her a copy of her contract, imposing stiff penalties for tardiness, imposing inhuman and unbearable working conditions such as lunch-break of only 15 minutes, violating labor standard laws, prohibiting stay-in employees from eating in adjoining restaurants, and hitting a teacher for allegedly refusing to sign a contract. [3]

She likewise cited several unauthorized deductions made from her salary, namely, P1,000.00 for cash bond, P460.00 for books, and P1,500.00 for alleged tardiness. [4]

On unpaid wages, she claimed that she was not compensated from March 15 up to September 15 (the year was not specified but, based on the records, it was in 1990) at the agreed sum of P3,000.00 per month, or a total sum of P21,000.00. She further asseverates that she was constructively dismissed from the service when she was divested of her assigned load of subjects. Finally, she was allegedly not paid for services she rendered on weekends and legal holidays. [5]

On their part, petitioners contended that private respondent abandoned her job when she failed to report for work in the summer of 1990 contrary to their agreement, hence they prayed for an award of damages in their favor. [6]

After a careful evaluation of the position papers of the contending parties, the labor arbiter found that only the claims for illegal deduction, 13th month pay, unpaid wages, and legal holiday pay were meritorious. Accordingly, petitioners were ordered to pay private respondent the aggregate sum of P11,335.96 and attorney's fees in the amount of P1,133.60, while petitioners' counter-complaint was dismissed. [7]

For the ratio decidendi of said ruling, we reproduce with approval the following discussion in the decision of the

labor arbiter:

"x x x This Branch cannot give due course to the alleged illegal dismissal. In the first place, illegal dismissal was not among the causes of action cited in the complaint. The complainant is not permitted by the rules to implead additional causes of action in her position paper without first amending her complaint. To allow her such stance would unduly prejudice the respondents who are entitled to due process inasmuch as under the ordinary course of procedure summons must first be issued before additional causes of action could be cited against the respondents. Besides, how could there be illegal dismissal when it was the complainant who ceased reporting for work on April 12, 1990? The reason advanced by the complainant in support of her alleged illegal dismissal is that her subject loads were withdrawn from her. Granting that her subject loads as an English Teacher were withdrawn, it appears that when that was done, complainant yielded without any remonstrance as in fact she agreed to work as Course Adviser instead during the summer time.

"Regarding the claim of unfair labor practice, the acts complained of and being attributed to the respondents as hereinbefore discussed cannot be categorized as unfair labor practice acts as understood and contemplated by the Labor Code, as amended, particularly Art. 248, paragraph (a) to (i), inclusive. The alleged attempts of the respondents not to let (sic) the employees to socialize for fear of the organization of a labor union is just a mere conclusion of fact not supported by the evidence.

"Anent the alleged violations of PD 525 and PD 928, these charges do not have merit. PD 525 refers to emergency living allowance already integrated into the basic wage sometime in 1980. PD 928 refers to wage increase granted sometime in 1982 not applicable to the case of the complainant.

"With respect to the claim for overtime pay, it appears from the evidence (Exh. '3-b' to '3-j') that the complainant being paid on per hour basis did not render any overtime work or services beyond eight (8) hours everyday. Most of the time, her teaching loads did not keep her at work to no (sic) more than four (4) hours everyday.

"On legal holiday pays, it appears from the evidence that complainant reported for work on November 30 and December 30, 1989, at four (4) hours each. Being legal holidays, complainant is entitled to an additional 100% of her daily rate which was P30.00 per hour. Thus, complainant for the total eight (8) hours for the two (2) legal holidays, she must be paid P240.00.

"On unpaid wages, it appears that complainant was paid P500.00 only for the period from March 15, 1990 up to April 12, 1990 instead of the P3,500.00 per month as agreed upon between her and the respondents. Thus, the respondents must pay the balance in the sum of P3,000.00. The complainant's claim for unpaid salaries from April 15, 1990 up to September 15, 1990 cannot be granted where it appears that she was already out of work starting April 12, 1990.

"Regarding the complainant's claim for illegal deduction, the alleged deduction of P460.00 for books was admitted by the respondents. Said deduction without any written authorization from the complainant cannot be made. Besides, there was no agreement before complainant was hired that she had to buy books from the respondents. Hence, respondent must reimburse the complainant the said sum of P460.00. This Branch also awards the claim of P1,000.00 to complainant by way of reimbursement of what was also deducted as cash bond. As between the affirmative declaration of the complainant and the negative denial of the respondents, the former deserves more evidentiary weight. Besides, in case of doubt in case of two (2) unsubstantiated but opposing assertions, such doubt must be resolved in favor of workingmen.

"On the claim for 13th month pay (violation of PD 851), it appears from the evidence submitted by the respondents that no such payment by way of proportionate 13th month pay for 1990 and 1989 was paid to the complainant. From July, 1989 up to December 31, 1989, the complainant received a total compensation amounting to P7,319.00, then, from January 1, 1990 up to April, 1990, she received a total of P10,205.00. Thus, her proportionate 13th month pay is computed, as follows:

1989

6 mos. x P 7,319.00

= P3,659.50

12

1990

3.5 x P 10,205.00

= P2,976.46

12

TOTAL 13TH MONTH PAY

= P6,635.96

"With respect to the counter-complaint that respondents filed against the complainant for damages, for want of basis the same, is dismissed. The complainant has been forced to be absent on account of the failure of the respondents to pay her salaries. In fact, for that reason and her other money claims against the respondents, complainant without further delay instituted her suit against the respondents in less than a week after she absented herself. The complainant cannot be faulted. Part of the blame is imputable to the respondents. It has been said that one who comes to court must do so with clean hands. The respondents do not belong to this category. Apart from their non-observance of certain labor standard laws as hereinabove discussed, it even appears that they do not keep the required payrolls, daily time records, and pay slips as required by Book III, Rule X, Section 6, to 12, of the Implementing Rules and Regulations of the Labor Code, as amended." [8]

Dissatisfied with the aforequoted ruling, both petitioners and private respondent lodged separate appeals before the National Labor Relations Commission (NLRC). The latter affirmed the appealed decisions [9], hence the instant petition.

In this action for certiorari, petitioners assail the public respondent's judgment on two points, viz.: (1) in awarding 13th month pay in the amount of P6,635.96 in favor of private respondent, and (2) in dismissing its counter-complaint. [10]

The appeal with regard to the first issue is meritorious. The NLRC, as earlier illustrated, adopted the labor arbiter's computation of private respondent's 13th month pay as follows:

1989

6 mos. x P 7,319.00

= P3,659.50

12

1990

3.5 x P 10,205.00

= P2,976.46

12

TOTAL 13TH MONTH PAY

= P6,635.96[11]

According to No. 4(a) of the Revised Guidelines on the implementation of the 13th Month Pay Law (Presidential Decree No. 851) dated November 16, 1987, the 13th month pay of an individual is (not less than) one-twelfth (1/12) of the total basic salary earned by an employee within a calendar year. Moreover, in No. 6 thereof, it is provided that an employee who has resigned or whose services were terminated at any time before the time for payment of the 13th month pay is entitled to this monetary benefit in proportion to the length of time he worked during the year, reckoned from the time he started working during the calendar year up to the time of his resignation or termination from the service. Thus, if he worked only from January up to September, his proportionate 13th month pay should be equivalent to 1/12 of the total basic salary he earned during that period.

Since no evidence was adduced by private respondent that petitioners observe a different formula in the computation of the 13th month pay for their employees, the aforementioned mode of computation should be applied.

Thus, considering that in 1989 private respondent rendered service for only 6 months, her 13th month pay should be one-twelfth (1/12) of the total compensation she received for that year, that is, P7,319.00. Consequently her 13th month pay for the year 1989 should be P610,00.

Following the same formula, private respondent should receive a 13th month pay of P850.00 for the year 1990 for services rendered for three months wherein she received a total compensation of P10,205.00, that is, P10,205.00

divided by 12 equals P850.00.

On this particular aspect, therefore, the Court takes exception to the rule that the findings on technical matters by administrative bodies like respondent NLRC are accorded respect and finality on appeal [12], since it is clear that a palpable and demonstrable mistake has been committed and should be rectified. Petitioners should, therefore, pay private respondent the total amount of P1,460.00, instead of P6,635.96, as her 13th month pay for 1989 and 1990.

With regard to the second issue, on whether or not petitioners are entitled to damages in view of private respondent's abandonment of her job, the Court upholds and approvingly quotes respondent NLRC's ruling on this matter which affirmed that of the labor Arbiter, to wit:

"As regards respondents' counterclaim on the allegation that complainant is guilty of having abandoned her job, we likewise vote for a dismissal thereof. It is a well-settled rule that to constitute abandonment, there must be a deliberate unjustified refusal of the employee to resume his employment. This circumstance does not however exist in complainant's case, the assertions in her testimony given during the hearing standing un rebutted, and which is hereunder quoted as:

"THE LABOR ARBITER

(to witness)

What did you do as Course Adviser?

THE WITNESS

(answering)

A

As Course Adviser whenever there are enrollees, we advise them on the course that they have to take.

THE LABOR ARBITER

(to witness)

Q

So, after you agreed with Mrs. Tapalla, did you report for the two month period, April and May, 1990 as Course Adviser?

THE WITNESS

(answering)

A

As Course Adviser, yes, Your Honor.

THE LABOR ARBITER

(to witness)

Q

For the two month period April and May?

THE WITNESS

(answering)

A

Not for the two month period. I was not able to finish since when I waited for the salary, there were two fifteen that were not given.

THE LABOR ARBITER

(to witness)

Q

In other words, there were two (2) pay periods that you were not paid?

THE WITNESS

(answering)

A

Yes, Your Honor.

THE LABOR ARBITER

(to witness)

Q

What in particular were the periods involved?

THE WITNESS

(answering)

A

The first month.

THE LABOR ARBITER

(answering)

Q

You mean April?

THE WITNESS

(answering)

A

Yes, Your Honor, March 15 to April 15.

x x x

THE LABOR ARBITER

(to witness)

Q

In other words, your agreement involving rendition of your services as Course Adviser started March 15, 1990?

THE WITNESS

(answering)

A

Yes, Your Honor.

THE LABOR ARBITER

(to witness)

Q

And according to you, you were not paid your salary for March 15 up to March 31?

THE WITNESS

(answering)

A

Yes, Your Honor.

THE LABOR ARBITER

(to witness)

Q

And also from April 1 to April 15 because according to you two pay periods?

THE WITNESS

(answering)

A

Yes, Your Honor.

x x x

THE LABOR ARBITER

(to witness)

Q

All right, after that conference with Mrs. Tapalla, did you still report for work as Course Adviser?

THE WITNESS

(answering)

A

I wasn't able to report anymore because I don't have any money. In fact I borrowed money from people without my husband's knowledge.

THE LABOR ARBITER

(to witness)

Q

Did you inform Mrs. Tapalla about the fact that you will no longer report anymore to your work?

THE WITNESS

(answering)

A

I was not able to inform her since they sent me a letter at once. So, they did not give me any chance to call them up because I received a letter the following day, and I think that is a Sunday.

x x x

"Had respondents been free from any participation in the adverted cause for complainant's failure to report for work, this Commission could have taken a different course from that of the Labor Arbiter. It appears, however, that respondents are not free from any wrong as it is also clear from the records of the case that they have been remiss in fully observing the letter of the law concerning labor standards provisions. As such, we concur with the Labor Arbiter in invoking the principle in equity that he who comes to court must do so with 'clean hands.' Accordingly, respondents do not deserve the remedial relief asked." [13]

WHEREFORE, as MODIFIED by awarding private respondent her 13th month pay for 1989 and 1990 in the reduced total amount of P1,460.00, the assailed decision of respondent National Labor Relations Commission is hereby AFFIRMED in all other respects.

SO ORDERED.

Narvasa, C.J., (Chairman), Bidin, Puno, and Mendoza, JJ., concur.

[1] Rollo, 14.

[2] Ibid., id.

[3] Ibid., 15.

[4] Ibid., 16.

[5] Ibid., id.

[6] Ibid., id.

[7] Ibid., id.

[8] Ibid., 16-20.

[9] Per Presiding Commissioner Bartolome S. Carale, with the concurrence of Commissioners Vicente S.E. Veloso and Alberto R. Quimpo.

[10] Petition, 5; Rollo, 6.

[11] Rollo, 26.

[12] See *Latchme Motoomull, et al. vs. Dela Paz, et al.*, G.R. No. 45302, July 24, 1990, 187 SCRA 743.

[13] Rollo, 29-34.

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