

CARLITO GARCIA, EDUARDO ROAN, ALBERTO REYES, AND ABEL GONZALES, PETITIONERS, VS. THE NATIONAL LABOR RELATIONS COMMISSION AND COCA COLA BOTTLERS PHILS., INC. (CCBPI), RESPONDENTS.

G.R. No. 113774. April 15, 1998

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

In this petition for certiorari under Rule 65 of the Rules of Court, petitioners seek to annul the Decision dated 18 August 1993 of the public respondent National Labor Relations Commission (NLRC) in the case docketed as NLRC-NCR Case No. 00-01-00581-92; and its Order dated 30 September 1993 denying herein petitioners' motion for reconsideration of the above decision.

The antecedents facts of this case as found by the public respondent NLRC are as follows:

Petitioners Carlito Garcia, Eduardo Roan, Alberto Reyes, and Abel Gonzalez were sales employees at the Bagumbayan Sales Office of private respondent Coca-Cola Bottlers Phils., Inc. (CCBPI, for brevity).

In the morning of 11 November 1991, Jess M. Bangsil, Regional Sales Manager of Coca-Cola Bottlers Phils. at their Bagumbayan Sales Office in Libis, Quezon City, was informed by Alex J. Topacio, District Sales Supervisor, that the above-named petitioners had locked themselves in the comfort room of the conference hall located on the third floor of the said sales office. Thereupon, Bangsil directed security guard Ronaldo B. Beltran to accompany him to the aforesaid comfort room, and together, they knocked on the door. After two (2) minutes Alberto Reyes opened the door. As he was coming out of the room, Bangsil observed a thick cloud of smoke inside. Abel B. Gonzalez came out next, followed by Eduardo J. Roan. Bangsil proceeded inside the comfort room and was surprised to see Carlito Garcia attempting to hide the door. Bangsil asked Garcia what the four of them were doing inside the comfort room, and the latter replied, "Boss, may pinag-uusapan lang kami." [1]

Bangsil continued to inspect the room and found a cigarette lighter, pieces of cotton string, a ballpen tip, and cigarette aluminum foil containing some whitish substance, near the awning window. Bangsil, likewise, observed that petitioners were acting "rather strangely," hence, he instructed them to proceed to the Sales Office Clinic for medical examination. Petitioners complied. However, Dr. Albuquerque M. Lopez, Jr., the CCBPI company doctor assigned to the Bagumbayan Sales Office, did not proceed with the urine examination as he was informed by the sales office nurse, Ma. Concepcion Raz, that the urine samples submitted by petitioners were adulterated with water and/or were not actually petitioners' urine samples. A sales office janitor, one Elvin C. Ganados, subsequently executed an affidavit that he was coerced by petitioner Garcia to urinate in a small bottle provided by the latter.

That same day, Bangsil issued a memorandum informing petitioners that they were grounded effective 12 November 1991 pending the investigation of their case.

The next day, or on 12 November 1991, Dr. Lopez, again requested for new urine samples from the petitioners, but the latter allegedly refused to have their urine samples taken.

Meanwhile, the cigarette aluminum foil containing the whitish substance was sent to the National Bureau of Investigation (NBI) for analysis. On 19 November 1991, the NBI issued a certification to the effect that the white crystalline substance was not, did not contain Methamphetamine Hydrochloride (popularly known as Shabu).[2]

On 26 November 1991, private respondent sent notices to petitioners and their counsel that an investigation of the above-narrated incident would be conducted on 4 December 1991. On the scheduled date of investigation, petitioners and their counsel, Atty. Sergio R. Manzo, appeared and manifested that they preferred to submit counter-affidavits to refute the affidavits and other documents presented by private respondent rather than go through the usual question and answer procedure.

On the basis of the evidence adduced, private respondent found petitioners guilty of violation of Section 4 and 5 of the CCBPI Employees' Code of Disciplinary Rules and Regulations and for working under the influence, and possession of, prohibited drugs. Consequently, petitioners were terminated from employment on 6 January 1992.

On 27 January 1992, petitioners filed a complaint for illegal dismissal with the arbitration branch of the NLRC in Manila. On 15 July 1992, Labor Arbiter Potenciano Canizares, Jr. dismissed the complaint for lack of merit.

In giving credence to the factual version of private respondent, the labor arbiter held:

It is noteworthy that while the case against the complainants is grave and gravely it has affected their industrial relations, the complainants made it appear ordinary and accidental, submitting their above loose version of the facts and paltrily adducing evidence. While they stated that on November 11, 1991 they were only smoking in the comfort room and exchanging personal views and that the security guard on duty who saw them there suspected they were having a drug session, the proofs show that the complainants locked themselves in the comfort room and it took the security guards great efforts and several minutes to open the comfort room to get them. While the complaints would have us believe that they agreed with the guards, the proofs show that they scampered out and one, Carlito E. Garcia, even hid behind the door. While they alleged that when told to go to the clinic for medical examination, they voluntarily complied and submitted themselves for medical examination, the proofs show that when their urine had to be taken for a test, they adulterated the urine samples and even coerced janitor Elvin C. Ganados to give his urine as samples for theirs; and that when the doctor requested on November 12, 1991 for new urine samples, they refused to have their urine taken.[3]

On appeal thereafter, the First Division of the NLRC dismissed petitioners' appeal in a Decision, dated 18 August 1993, thus:

We have to dismiss the appeal.

Anent the first ground, it is enough that We point out that "(W)hen confronted with conflicting versions of factual matters," the Arbiter has the discretion to determine which party deserves credence on the basis of evidence received. (*Gelmart Industries (Phils.), Inc. vs. Leogardo*, 155 SCRA 403, 409)

On complainants' second ground, Section 5, Rule 003-85 of the CCBPI Employees Code Of Disciplinary Rules and Regulations clearly penalizes mere possession of prohibited drug (sic) with dismissal. Even if no such provision exists in respondent's company rules, just the same, the subject infraction of complainants constitute "serious misconduct" which under Article 282 of the Labor Code is a ground with which the complainant (sic) May be dismissed.[4]

Petitioners filed a motion for reconsideration of the above decision, which motion was, however, denied by the NLRC in an Order dated 30 September 1993.

Hence, this petition wherein petitioners contend that:

PUBLIC RESPONDENTS NLRC COMMISSIONERS WAS (sic) WITHOUT OR EXCEEDED THEIR JURISDICTION AND/OR GRAVELY ABUSED THEIR DISCRETION TANTAMOUNT TO LACK OF JURISDICTION IN ISSUING THE DECISION DATED August 18, 1993.[5]

The issue in the instant case, is whether or not petitioners were illegally dismissed.

We rule in the affirmative.

At the outset, it is worthy to note that the Office of the Solicitor General, in its comment to the instant petition for certiorari, prayed that the petition be given due course and the assailed resolutions of the NLRC reversed and set aside.

Private respondent, for its part, cites the oft-repeated rule that “findings of fact of the labor arbiter and respondent commission are generally accorded not only respect but, at times, even the stamp of finality where such findings are duly supported by substantial evidence. (Coca-Cola Bottlers Philippines, Inc. vs. NLRC, 180 SCRA 195.)”[6]

On the other hand, the rule is equally settled that this Court will not uphold erroneous conclusions of the NLRC when the Court finds that the latter committed grave abuse of discretion in reversing the decision of the labor arbiter or when the NLRC’s findings of fact from which its conclusions are based are supported by substantial evidence.[7] Substantial evidence, which is the quantum of evidence required to establish a fact in cases before administrative or quasi-judicial bodies, is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[8]

In the case at bar, we find the evidence insufficient to justify the conclusion that petitioners violated any company rule or committed any act constituting a breach of trust or confidence warranting their termination from service.

Petitioners were dismissed for violation of Sections 4 and 5 of Rule 003-85 of the CCBPI Employees Code of Disciplinary Rules and Regulations which provide:

Section 4. – Reporting for work or working under the influence of liquor or alcoholic drinks or prohibited drugs and their derivatives whether committed within a calendar year or not; analogous cases:

a. If positions do not require dealing with the public, handling of goods/equipment, driving or do not involve inspections chores:

First Offense 3 days Suspension

Second Offense 6 days Suspension

Third Offense 10 days Suspension

Fourth Offense 15 days Suspension

Fifth Offense 30 days Suspension

Sixth Offense DISCHARGE

b. If positions require driving/handling of goods/equipment, or involves inspection chores, or dealing with the public whether committed within a calendar year or not; analogous cases:

First Offense 6 days Suspension

Second Offense 15 days Suspension

Third Offense 30 days Suspension

Fourth Offense DISCHARGE

Section 5. Drug pushing or possession of prohibited drugs and/or their derivatives including selling or possessing of marijuana, opium, heroin and others of similar nature – DISCHARGE.[9]

A perusal of the records of the instant case reveals that the charge that petitioners used and/or possessed prohibited drugs, more specifically methamphetamine hydrochloride or shabu was never established.

The drug-related paraphernalia were not actually found in the possession of petitioners, but were discovered inside the comfort room, near the awning window thereof. As noted by the Solicitor General, it would be pure speculation to attribute the ownership of the same to petitioners since the comfort room is open to the general public.

More importantly, the National Bureau of Investigation (NBI) issued a certification dated 19 November 1991, that the aluminum foil containing the whitish substance (one of the paraphernalia allegedly found in the comfort room) was negative of, or did not contain methamphetamine hydrochloride (or shabu) or any other prohibited drug.[10]

This should have put to naught private respondent's allegation that petitioners were using shabu or some other prohibited drug. Nevertheless, private respondent insisted that the active substance in the seized articles must have already lost their efficacy as three (3) days had elapsed from the time they were found up to the time they were brought to the NBI for analysis.

However, this contention has been satisfactorily rebutted by petitioners by way of a letter from the Dangerous Drugs Board, dated 7 December 1993, certifying that shabu does not expire or lose its efficacy for a period of one and a half (1 ½) years.[11]

Private respondent contends that petitioners committed acts to alter the result of the initial urine examination, and subsequently refused to submit new urine samples. However, private respondent failed to show that the urine samples were in fact adulterated with water, or that these were not actually petitioners' urine samples as allegedly reported by the office nurse. No evidence was presented to show that said urine samples were ever tested so as to determine the truth of such allegations. Instead, private respondent presented the affidavit of one Elvin C. Ganados, a janitor at the sales office, wherein he narrated that he was coerced by petitioner Garcia to give the latter his (Ganados') urine sample in a bottle.[12]

Ganados' affidavit is suspected. If he was indeed coerced, why did he not immediately report the matter to the company's officials? It would seem that what he stated in his affidavit is an afterthought.

Private respondent, likewise, submitted the affidavits of Dr. Albuquerque M. Lopez, Messrs. Ronaldo B. Beltran and Jess M. Bangsil – notably all employees of private respondent company – attesting to the events which allegedly occurred on November 11 and 12, 1991. However, none of the affidavits attests to petitioners having been caught in actual possession of the prohibited drugs. Aside from these affidavits, no other competent evidence was presented by the private respondent adequate enough to justify the conclusion that petitioners were in possession of prohibited drugs, much less they were actually using prohibited drugs.

In the case of *Hernandez vs. NLRC*,[13] this Court set aside the decision of the NLRC upon finding that it was premised heavily on the affidavits executed by respondent corporation's employees. In that case, this Court ruled:

xxx Aside from these affidavits and the criminal complaint for qualified theft – filed almost two months after petitioner had instituted a complaint before the Regional Office of the NLRC for illegal dismissal – no other relevant evidence was presented by private respondents reasonably acceptable or adequate enough to support

the conclusion that petitioner probably caused the unauthorized replacement of the tire in question. x x x

The burden of proof rests upon the employer that the dismissal is for cause, and the failure of the employer to do so would mean that the dismissal is not justified.

The record is bare of any showing positively linking petitioner to the alleged theft committed. The affidavits executed by private respondents' employees failed to establish a reasonable basis to attribute the loss upon petitioner. xxx

From the evidence presented in the case at bar, it is clear that the circumstances upon which private respondent anchored its claim that petitioners used and/or possessed prohibited drugs, specifically shabu, are insufficient to warrant petitioners' dismissal from employment for violation of the aforequoted sections of the CCBPI Rules and Regulations.

It is also worthy to note that in the present case, no criminal action was ever instituted considering that the act petitioners were accused of constituted a crime.

Private respondent further argues that petitioners were terminated from employment not only for violation of company rules but also for breach of trust and confidence.

Article 279 of the Labor Code provides that in cases of regular employment, the employer shall not terminate the services of an employee "except for a just cause or when authorized by this Title." [14]

Loss of confidence constitutes a just cause for terminating an employer-employee relationship. Granting that petitioners were holding positions of trust and confidence, nevertheless, private respondent was not able to establish a sufficient basis upon which "loss of confidence" can be sustained. As already noted, the evidence presented did not establish that petitioners had at any time used and/or possessed prohibited drugs. For dismissal for loss of confidence to be warranted, there should naturally be some basis for it; and although proof beyond reasonable doubt is not necessary to justify an employee's dismissal, still the basis therefor must be clearly and convincingly established. [15] Unsupported by sufficient proof, loss of confidence may not be successfully invoked as a ground for dismissal. [16]

Moreover, a dismissed employee is not required to prove his innocence of the charges leveled against him by his employer. The burden of proving the just cause for dismissing an employee rests on the employer and his failure to do so would result in a finding that the dismissal is unjustified. [17]

In the case at bar, private respondent failed to establish a sufficient basis to support the conclusion that a just or lawful cause for petitioners' dismissal exists.

Consequently, we are constrained to uphold the petitioners' right to security of tenure in adherence to the Constitutional mandate. [18] This constitutional right to security of tenure is of such paramount value that it should not be denied on mere speculations, conjectures or surmises.

Petitioners in this case are ordinary workingmen with families to support. To deprive them of their only means of livelihood would bring untold hardship not only to themselves but also to those dependent on them. [19]

Finally, it may also be mentioned that private respondent has not even alleged petitioners had bad records of employment or that they had committed any violation of company rules in the past.

WHEREFORE, the instant petition is GRANTED. The Decision dated 18 August 1993 of the National Labor Relations Commission, and its Order dated 30 September 1993, are hereby REVERSED and SET ASIDE. Private respondent Coca-Cola Bottlers Phils., Inc. is hereby ordered to reinstate petitioners to their former positions,

without loss of seniority rights and other privileges; and, in accordance with our ruling in *Bustamante vs. NLRC*,^[20] petitioners are entitled to their full backwages, inclusive of allowances and other benefits or their monetary equivalent computed from the time their actual compensation was withheld from them up to the their reinstatement.

SO ORDERED.

Narvasa, C.J., Romero, and Purisima, JJ., concur.

[1] Rollo, p. 30.

[2] *Id.*, at 55.

[3] *Id.*, at 32-33.

[4] *Id.*, at 34.

[5] *Id.*, at 12.

[6] *Id.*, at 83.

[7] *Labor vs. NLRC*, 248 SCRA 183 (1995).

[8] *Reno Foods, Inc. vs. NLRC*, 249 SCRA 379 (1995).

[9] Records, p. 69.

[10] Rollo, p. 55.

[11] *Id.*, at 56.

[12] *Id.*, at 31.

[13] 176 SCRA 269 (1989)

[14] Art. 279. Security of Tenure – In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement. (As amended by Section 34.)

[15] *Starlite Plastic Industrial Corp. vs. NLRC*, 171 SCRA 315 (1989).

[16] *Hernandez vs. NLRC*, *supra*.

[17] *Starlite Plastic industrial Corp. vs. NLRC*, *supra*.

[18] Article XIII, Section 3 of the 1987 Constitution provides:

Sec. 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to

security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law. (underscoring supplied)

[19] *Rance, et al. vs. NLRC*, 163 SCRA 279 (1988); *Offshore Industries, Inc. vs. NLRC*, 177 SCRA 50 (1989); *Century Textile Mills, Inc., et al. vs. NLRC, et al.* 161 SCRA 528 (1988).

[20] 265 SCRA 61 (1996).

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