

**CATALINO BONTIA, RESURRECION LOZADA AND DONATO DUTARO,  
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION,  
CONSOLIDATED PLYWOOD INDUSTRIES, INC. AND HENRY WEE,  
RESPONDENTS.**

*G.R. No. 114988. March 18, 1996*

Ponente: REGALADO, J.

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**REGALADO, J.:**

This petition for certiorari seeks the nullification of the resolutions of September 27, 1993 and December 2, 1993 promulgated by the National Labor Relations Commission (NLRC) in NLRC CA No. M-001476-93, entitled "Leopoldo Luayon, et al. v.s. Consolidated Plywood Industries, Inc./The Board of Directors, et al." which reversed and set aside the decision of the labor arbiter.

The records disclose that petitioner Catalino Bontia was employed as a truck driver by private respondents from June, 1987 to February 29, 1992 when he was asked to sign an application for forced leave without pay. His last daily rate of pay was P104.00. Petitioner Resurrecion Lozada worked with the private respondents as a logging foreman from September, 1990 to February 29, 1992 with a daily wage of P125.00, while petitioner Donato Dutaro was a welder from January, 1987 to January 4, 1992 receiving a daily wage of P106.00.[1]

Petitioner Dutaro alleged that on January 4, 1992, he was forced to sign an application for leave without pay wherein there was no date of expiration but with a provision that "failure on my part to report on the date of expiration of my leave as approved will be considered as my voluntary resignation from the company." [2] Thereafter, he continued to report to the office only to be told that there was no work.

With respect to petitioners Bontia and Lozada, it was on February 29, 1992 when they were likewise asked to sign the same applications for indefinite forced leave without pay, but they refused to sign the same. As a consequence, they were not allowed to work anymore or even to enter the company premises.

Petitioners were thus in a situation where they could not seek employment elsewhere because they had no clearance from respondent corporation, aside from the fact that if they worked with another employer they would be deemed to have abandoned their former positions where they were regular employees. They could not also determine when they would be recalled for work or when their so-called forced leave would expire, much less were they informed of the supposed six-month limit if it was truly contemplated by respondent company. Unlike their other companions who were given separation pay, they received nothing except a vague promise of reemployment. In short, they were left to their own devices to survive and provide for their respective families during their so-called forced leave of indeterminable duration.

Private respondents, on the other hand, contend that they had to suspend operations and resort to retrenchment because they suffered business reverses due to the total log ban imposed by the Government. Private respondents likewise claim that petitioners were among those personnel who were temporarily laid off by them, to be

reactivated once private respondents shall have resumed normal operations.[3] They allegedly submitted the necessary notice to the Department of Labor and Employment and posted said notices at different areas of the workplace[4] which fact, however, was denied by petitioners who pointed out that private respondents did not present any evidence of such posting.

Due to the uncertainty of their employment status, and since private respondents refused to afford them any relief from their plight, petitioners eventually filed a complaint for constructive dismissal, with money claims and prayer for reinstatement, before the National Labor Relations Commission, Regional Arbitration Branch No. XI, Davao City. Private respondents in their answer, contend that the filing of the complaint was premature because the law allows the employer to suspend operations for six months .[5]

On April 30, 1993, Labor Arbiter Antonio M. Villanueva rendered judgment finding the dismissal of petitioners to be illegal, awarding payment of their back wages, and ordering their reinstatement or, in the alternative, the payment of separation pay equivalent to one month for every year of service. The decretal portion of his decision is as follows:

"IN LIGHT OF ALL THE FOREGOING, judgment is hereby rendered:

1. ordering respondents Consolidated Plywood Industries, Inc./The Board of Directors and Henry C. Wee to jointly and severally pay to complainants their six months back wages computed as follows:

a) Donato Dutaro(P106/day x 26 days x 6 mos.)

= P16,536.00

b) Resurrecion M. Lozada(P125/day x 26 days x 6 mos.)

= P19,500.00

c) Catalino Bontia (P104/day x 26 days x 6 mos.)

=P16,224.00

P52,260.00

2. reinstate complainants to their former position(s) without loss of seniority rights or if not feasible a separation pay of one (1) month for every year of service as follows:

a) Donato Dutaro 1/87 to 5/20/93

=P16,536.00

b) Resurrecion Lozada 9/90 to 5/20/93

=P 9,750.00

c) Catalino Bontia 10/18/86 to 5/30/93

=P18,928.00

P45,2 14.00

Or a total of NINETY SEVEN THOUSAND FOUR HUNDRED SEVENTY-FOUR (P97,474.00) PESOS representing complainants' six (6) months backwages and separation pay.

3. all other money claims are hereby dismissed for lack of merit."[6]

Private respondents appealed to the National Labor Relations Commission (NLRC) which set aside the decision of the labor arbiter and entered a new one "dismissing the complaint for lack of merit," and forthwith declaring petitioners guilty of "quitting" under Article 285(a) of the Labor Code.[7]

Feeling aggrieved by that decision, petitioners filed the petition at bar, alleging that the NLRC rendered a decision with grave abuse of discretion tantamount to want of jurisdiction, and raising the sole issue of whether or not under the circumstances they were constructively discharged from their employment.

Petitioners contend that if indeed there was a need to suspend respondent corporation's operations due to lack of materials and other justifiable grounds, the law allows such suspension provided it does not exceed six months. It could have specifically so stated, and there was no sense whatsoever in compelling the workers to be on an ambiguous and unspecified period of "forced leave," as in the instant case. They stress that, in fact, there was actually no closing, cessation or suspension of respondent company's operations. The truth is that, thereafter, it was business as usual for the company.[8] The record does not disclose that these particular contentions were duly confuted by respondent company, nor did it prove that it really implemented such claimed suspension of operations.

Moreover, petitioners submit that their filing of the case for constructive dismissal with prayer for reinstatement is sufficient proof that they were never guilty of leaving their jobs. They stress that, similar to abandonment, to constitute "quitting" there must be a clear and deliberate intent to discontinue one's employment without any intention of returning.[9] Significantly, the Solicitor General's comment does not claim that by their filing of the aforesaid case, petitioners were thereby "quitting" or abandoning their employment.

As a rule, this Court has conventionally refrained from reviewing factual assessments of lower courts and agencies exercising adjudicative functions. Occasionally, however, the Court has been constrained to delve into such matters, generally, when there is insufficient or insubstantial evidence on record to support those factual findings. The same holds true when it is perceived that far too much is concluded, inferred or deduced from the bare or incomplete facts appearing of record.[10]

Although we have consistently ruled that the factual findings of quasi-judicial bodies are entitled to respect,[11] we cannot in the present case rely on such findings primarily because the labor arbiter and the NLRC have come up with conflicting positions. The bone of contention is whether or not private respondents acted in good faith and complied with the requirements of law in supposedly suspending operations and using that as a basis for compelling petitioner to go on forced leave. For, indeed, if the retrenchment was inevitable, then they should have given their workers separation pay as required by law.

The rule is well settled that labor laws discourage interference with an employer's judgment in the conduct of his business. Even as the law is solicitous of the welfare of employees, it must also protect the right of an employer to exercise what are clearly management prerogatives. As long as the company's exercise of the same is in good faith in order to advance its interests and not for the purpose of defeating or circumventing the rights of the employees under the law or valid agreements, such exercise will be upheld.[12]

However, management prerogatives are not absolute but are subject to legal limits, collective bargaining agreements, or general principles of fair play and justice.[13] And, while it is the special privilege of management to dismiss or lay off an employee, the exercise of that prerogative must be made without abuse of discretion, for what is at stake is not only the employee's position but also his means of livelihood[14] Courts may, therefore, look into the employer's exercise of a management prerogative if the same is clearly shown to be tainted with

grave abuse of discretion,[15] ever mindful that, under the foregoing principles and the policy of the State, doubts should be resolved in favor of the disadvantaged employee.

In the instant case, the manner by which private respondents severed their relationship with petitioners unfortunately appears to be an underhanded circumvention of the law. Respondent company summarily required its employees to sign applications for forced leave deliberately crafted to be without an expiration date. This created an uncertain situation which necessarily discouraged, if not altogether prevented, the employees from reporting, or determining when or whether to report for work.

On the other hand, the same application for forced leave inexplicably also contains a proviso and undertaking of the employee that "failure on (his) part to report on the date of expiration of (his) leave as approved will be considered as (his) voluntary resignation from the company x x x"[16]

The date when he should report under such a contingency is consequently shrouded in doubt. Impaled upon the horns of this dilemma, the poor employee could easily be held liable for abandonment or "quitting," hence the employer could readily claim that the dismissal was lawful and the latter would thereby be absolved from any liability.

Even assuming that respondent company had a valid reason to suspend operations, that is, the total log ban with a deteriorating power supply, and had filed the necessary notice with the Department of Labor and Employment, it is still not a legitimate excuse to cursorily dismiss employees without properly informing them of their rights and status or paying their separation pay in case they were eventually laid off.

Under the Labor Code, separation pay is payable to an employee whose services are validly terminated as a result of retrenchment, suspension, closure of business or disease.[17] Thus, petitioners should at least have been given separation pay and properly informed of their status so as not leave them in a quandary as to how to properly respond to the unexpected situation.

We agree with the concurrent arguments of petitioners and the labor arbiter that if there was a bona fide suspension, then there was no necessity to require petitioners to sign applications for leave of absence with uncertain and indeterminable terms.[18] It was an inequitable imposition upon the pitiful employees who were thereby compelled and expected to keep on reporting to their workplace just to be told that there was still no available work for them. This continually entailed expenses for transportation and waste of time which they could otherwise have devoted to some alternative sources of income, especially since they did not receive and were not receiving anything from their employer.

Private respondents contend that the filing of petitioners' complaint was premature since the six-month period of suspension allowed by law had not yet expired. We do not agree. The records show that petitioners did not know that there was a suspension of business operations but that they were supposedly placed merely on forced leave by the company albeit with no specific period of duration.

In either instance, the employees would be at the losing end because if they waited for the end of six months as intimated, they could be charged with abandonment if they failed "to report on the date of expiration" of their supposed leave. However, that expiry date, as already noted, could not be specifically determined as it was left to private respondents' caprice.

Private respondents manifested in their comment that they were willing to re-hire petitioners if and when business would normalize.[19] This representation which does not even consider the six-month period, is more of a legal placebo or, in a manner of speaking, an empty gesture of pouring oil on troubled waters. For, despite the lapse of time since petitioners were forced to go on leave without pay which, according to private respondents' version

could not extend beyond six months, there is nothing in the records to show that within or after that period private respondents recalled any of said petitioners to report for work because of the "expiration" of their supposedly temporary layoff. This exposes the real purpose of the ploy of private respondents whereby they succeeded in forcing the other companions of petitioners into just settling for termination of their services under compromise arrangements.

Withal, we cannot completely begrudge private respondents the exercise of their business judgment not to recall petitioners if they considered that the log ban had inevitably reduced the volume of the main commercial operations. Furthermore, the filing of petitioners' complaint and the hostile incidents thereafter have sundered the erstwhile harmonious relationship between the parties, such that reinstatement would no longer be beneficial to either party.[20] We are also persuaded that we should not compel respondent company to re-hire petitioners if it would further impair its business prospects which had reportedly been adversely affected by other unfavorable contingencies.

Finally, we are nonetheless convinced that petitioners did not quit their job as insisted by public respondent but which fact its own counsel declined to sustain by not commenting thereon. For abandonment to be a valid cause for dismissal, there must be a concurrence of intention to abandon and some overt act from which it may be inferred that the employee had no more intent to continue working. An employee who forthwith takes steps to protest his layoff cannot by any logic be said to have abandoned his work.[21]

An award to petitioners of separation pay equivalent to one month for every year of service would accordingly appear to be in order. Furthermore, the failure of private respondents to observe the requirements of law in laying off an employee consequently holds the former liable to indemnify petitioners, which indemnity we place at P2,000.00 for each petitioner in this case.[22]

WHEREFORE, the petition for certiorari is GRANTED. The judgment of respondent National Labor Relations Commission dismissing petitioners' complaint for illegal dismissal is hereby REVERSED and SET ASIDE, and the judgment of Labor Arbiter Antonio M. Villanueva, dated April 23, 1993, is REINSTATED. Respondents are further ordered to solidarily pay an indemnity of P2,000 00 to each of herein petitioners for denial of due process in the termination of their services.

**SO ORDERED.**

Romero, Puno, and Mendoza, JJ., concur.

[1] Petition For Certiorari, 3; Rollo, 5.

[2] Original Record, 49.

[3] Comment of Private Respondents, 4; Rollo, 69.

[4] Ibid., 2; id., 67.

[5] Ibid., 5; id., 70.

[6] Original Record, Folder 1,76-77.

[7] Rollo, 26.

[8] Ibid., 12.

[9] Ibid., 13.

- [10] See *Chong Guan Trading vs. NLRC, et al.*, G.R. No. 81471, April 26, 1989, 172 SCRA 831, *Orcino vs. Civil Service Commission, et al.*, G.R. No. 92869, October 18, 1990, 190 SCRA 811.
- [11] *Inter-Orient Maritime Enterprises, Inc., et al. vs. NLRC*, G.R. No. 115286, August 11, 1994, 235 SCRA 268.
- [12] *Maya Farms Employees Organization, et al., vs. NLRC, et al.*, G.R. No. 106256, December 28, 1994, 239 SCRA 508.
- [13] *Businessday Information Systems and Services, Inc. vs. NLRC, et al.*, G.R. No. 103575, April 5, 1993, 221 SCRA 9.
- [14] *Corral vs. NLRC. et al.*, G.R. No. 96795, May 11, 1993, 221 SCRA 693.
- [15] *Master Iron Labor Union (MILU), et al. v. NLRC, et al.*, G.R. No. 92009, February 17, 1993, 219 SCRA 47.
- [16] Original Record, Folder 1,50.
- [17] *A Prime Security Services, Inc. vs. NLRC, et al.*, G.R. No. 93476, May 19, 1993, 220 SCRA 142; see also *Development Bank of the Philippines vs. NLRC, et al.*, G.R. Nos. 100264-81, January 29, 1993, 218 SCRA 183.
- [18] Original Record, 73-74.
- [19] Rollo, 70.
- [20] *People's Security, Inc. vs. NLRC, et al.*, G.R. No. 96451, September 8, 1993, 226 SCRA 146.
- [21] *Batangas Laguna Tayabas Bus Company vs. NLRC, et al.*, G.R. No. 101858, August 21, 1992, 212 SCRA 792.
- [22] *Sebuguero, et al. vs. NLRC*, G.R. No. 115394, September 27, 1995; see also *Kwikway Engineering Works vs. NLRC, et al.*, G.R. No. 85014, March 22, 1991, 195 SCRA 526.

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