

PURE BLUE INDUSTRIES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND EMPLOYEES OF PURE BLUE INDUSTRIES, INC., REPRESENTED BY SABADO SANTOS, RESPONDENTS.

G.R. No. 115879. April 16, 1997

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Twice thwarted, petitioner Pure Blue Industries, Inc. comes to this Court through a petition for certiorari under Rule 65 of the Revised Rules of Court to nullify the resolutions issued by the NLRC dated 29 November 1993 and 8 April 1994 dismissing petitioner's appeal and denying its motion for reconsideration, respectively.

Petitioner is a corporation engaged in the industrial laundry business. It offers services such as garment washing, bleaching, pressing, dyeing and finishing.[1] Employed with petitioner as machine operators, stone preparators, utility helpers, drivers, quality controllers and retouchers were the private respondents.[2]

In December 1990, private respondents demanded from petitioner the payment of their thirteenth month pay, wage increases and other benefits under existing laws.[3] Petitioner, however, failed to comply.

On 27 December 1990, petitioner terminated private respondents' services. Private respondents contended that their dismissal was brought about by their decision to join a union (PSSLU) and enlist its assistance to obtain the aforementioned claims. When petitioner got wind of private respondents' plan, it allegedly forced them to sign employment contracts for casual and contractual workers. Private respondents refused, hence, they were summarily dismissed.[4]

Consequently, on 3 January 1991, private respondents filed a complaint with the NLRC for illegal dismissal, underpayment of wages, non-payment of overtime pay, night differential pay, premium for rest day and holiday, service incentive leave and thirteenth month pay.[5]

For its part, petitioner indignantly denied that private respondents were dismissed. Although it admitted its failure to pay their (private respondents') thirteenth month pay, petitioner claimed that it was financially hard up and thus could not immediately comply with its obligation. Petitioner then countered by filing a complaint-affidavit dated 28 January 1991 against private respondents for abandonment. It alleged that private respondents left their jobs on 22 December 1990 after petitioner failed to produce their thirteenth month pay.[6]

On 25 November 1991, Labor Arbiter Manuel P. Asuncion rendered a decision in favor of private respondents. He declared that:

The complainants' entitlement to the wage differentials and 13th month pay is not disputed by the respondents. An exemption from the coverage of the Wage Orders NCR No. 01 and NCR No. 01-A is pending action before the Regional Tripartite Wage and Productivity Board, hence, this Office must desist from acting on the issue. The 13th month pay is due for payment a long time ago. Satisfaction must be enforced.

There are information on the record which dispute the claim of the respondents that the complainants abandoned their job. For one, it defies reason that a group of people would leave their job and then fight adds (sic) to win them back. In abandonment, the intent to return to the job is absent, but here, that was manifested as the desire of all. And they submitted their grievances, almost immediately, after they were terminated. They just allowed the new year celebration to pass and they filed the complaint. The complaint-affidavit of the respondent was filed only as an after thought (sic). It was prepared almost one month after the complaint was filed with this Office. Its alleged filing is evendoubtful (sic), because, there was no indication in the complaint-affidavit submitted that it was received by any section in the Department. Indications are, that the respondents terminated the complainants' employment and illegally at that. There was no cause on the part of the complainants to deserve such action. If there was any, the respondents should have notify (sic) the complainants of the nature of their infractions, and, thereafter, conduct an investigation on the matter. Obviously, this procedure was not undertaken. On the other hand, it is something for thought that the dismissal came right after the complainants made demands for the correct payment of their benefits. That makes the dismissal all the more uncalled for.

WHEREFORE, the respondents are hereby ordered to reinstate the complainants to their former positions, without loss of seniority rights and other benefits and with full backwages from the date their salaries were withheld, until they are actually reinstated. Respondents are further directed to pay the complainants their 13th month benefits for 1990, the claim for salary differential must be set aside because the respondents' application for exemption is still pending action before the Regional Tripartite Wage and Productivity Board. The rest of the complaints are dismissed for lack of merit.

SO ORDERED.[7]

Petitioner's appeal to the NLRC was likewise unsuccessful. On 29 November 1993, the NLRC issued a resolution affirming the Labor Arbiter's decision and dismissing petitioner's appeal for lack of merit.[8]

Unwilling to concede, petitioner filed a motion for reconsideration but the same was denied in the NLRC's resolution dated 8 April 1994.

Hence, the present recourse.

Petitioner submits the following issues for resolution:

ISSUES

Hereunder are the issues that Petitioner submits to the Honorable Supreme Court for consideration:

- a) Are the Private Respondents really dismissed from employment by the Petitioner;
- b) Is the Decision dated November 25, 1991 (Annex "C") rendered by Labor Arbiter Manuel Asuncion, supported by evidence;
- c) Are the Resolutions dated November 29, 1993 (Annex "F") and dated April 7, 1994 (Annex "H") issued by Public Respondent NLRC, supported by evidence;
- d) Has Public Respondent NLRC committed grave abuse of discretion in issuing said Resolutions (Annex "F" and Annex "H").[9]

Simply put, however, the real issue for our determination is whether or not private respondents abandoned their employment as alleged by petitioner.

It is elementary that a special civil action for certiorari is limited to correcting errors of jurisdiction or grave abuse of discretion. Accordingly, borne out of this principle, is the time-tested rule that findings of facts of

administrative agencies (in this case the NLRC), when supported by substantial evidence, are final and binding upon this Court.[10]

Whether or not an employee has abandoned his job is essentially a factual issue[11] and in the case at bar, after a prudent study of the contentions of both sides, we find no cogent reason to disturb the findings of the Labor Arbiter which have been affirmed by the NLRC.

Petitioner admits that it is quite aware of the foregoing doctrines. Nonetheless, it takes exception to the same by contending that the decision of the Labor Arbiter and the NLRC (declaring unmeritorious petitioner's claim of abandonment and instead finding private respondents to have been illegally dismissed) was not supported by substantial evidence, being based merely on speculations and erroneous findings of facts. It asserts that:

In order to support his patently erroneous findings of facts, Labor Arbiter Manuel Asuncion engaged in purely baseless speculations by saying that, "For one, it defies reason that a group of people would leave their job and then fight odds to win them back." [12]

and concludes therefrom that the decision of the Labor Arbiter and corresponding resolutions of the NLRC were rendered with grave abuse of discretion.

Jurisprudence has established able judicial yardsticks to determine whether or not an employee has abandoned his work. In *Labor v. NLRC*, [13] we held:

To constitute abandonment, two elements must concur: (1) the failure to report for work or absence without valid or justifiable reason, and (2) a clear intention to sever the employer-employee relationship, with the second element as the more determinative factor and being manifested by some overt acts. Mere absence is not sufficient. It is the employer who has the burden of proof to show a deliberate and unjustified refusal of the employee to resume his employment without any intention of returning. *Gold City* failed to discharge this burden. It did not adduce any proof of some overt act of the petitioners that clearly and unequivocally show their intention to abandon their posts. On the contrary, the petitioners lost no time in filing the case for illegal dismissal against them, taking only four days from the time most of them were prevented from entering their work place on 22 August 1991 to the filing of the complaint on 26 August 1991. They cannot, by any reasoning, be said to have abandoned their work, for as we have also previously ruled, the filing by an employee of a complaint for illegal dismissal is proof enough of his desire to return to work, thus negating the employer's charge of abandonment. (Underscoring ours.)

Similarly in *Canete v. NLRC*, [14] we ruled that:

x x x We find it incongruous for petitioner to give up his job after receiving a mere reprimand from his employer. What is more telling is that on August 19, 1992 or less than a month from the time he was dismissed from service petitioner immediately filed a complaint against his employer for illegal dismissal with a prayer for reinstatement. Petitioner's acts negate any inference that he abandoned his work. Abandonment is a matter of intention and cannot be lightly inferred or legally presumed from certain equivocal acts. To constitute abandonment, there must be clear proof of deliberate and unjustified intent to discontinue the employment. The burden of proving abandonment of work as a just cause for dismissal is on the employer. Private respondent failed to discharge this burden.

Measured against these standard rules, we find no merit in petitioner's assertions. The Labor Arbiter correctly applied the afore-quoted doctrines in the case at bar and we agree with the latter's findings that private respondents did not abandon their employment.

Petitioner tells its tale in this wise: private respondents left work on 19 December 1990 to pressure and "scare" petitioner into giving their thirteenth month pay but after a dialogue with them, private respondents returned to

work on 21 December 1990. The following day, however, or on 22 December 1990 private respondents failed to come back to work.[15] Unfortunately, petitioner's story is hardly convincing and utterly insufficient to prove the elements of abandonment, particularly the second. We fail to discern from such a general narration that private respondents indeed intended to leave their jobs permanently. If private respondents' aim is to secure the benefits due them from petitioner, abandonment would surely be an illogical and impractical recourse, especially for simple laborers such as private respondents. In *Judric Canning Corp. v. Inciong*,[16] this Court astutely observed:

Moreover, there was no reason at all and none has been suggested by the petitioner, for the private respondents to abandon their work. No employee with a family to support, like the private respondents, would abandon their work knowing fully well of the acute unemployment and underemployment problem and the difficulty of looking for a means of livelihood. As the Solicitor General stated: "To get a job is difficult; to run from it is foolhardy."

In addition, strongly contradicting petitioner's charge of abandonment, is the immediate filing by the private respondents of a complaint against petitioner clamoring for their jobs back. Thus, contrary to petitioner's allegations, the Labor Arbiter's decision is based on plain facts and settled jurisprudence and not on mere speculation.

We agree, likewise, with the keen observation of the Labor Arbiter that the complaint for abandonment[17] was filed by petitioner almost a month after the complaint for illegal dismissal was filed by private respondents and that it was not shown that said complaint was actually filed with and received by the NLRC. Petitioner's alleged complaint, therefore, hardly bolsters its charge of abandonment.

Petitioner then takes a different tack and argues that private respondents' complaint for illegal dismissal was spurious as shown by the failure of private respondents to specifically describe how they were dismissed. Says petitioner:

x x x If indeed they were dismissed, they could have alleged that they received a letter of termination or at least were told not to report for work anymore. The absence of such a material allegation could only mean that the Petitioner never terminated their services. More importantly, the absence of such a material allegation means that Private Respondents have not proved with substantial evidence that they were in fact dismissed from employment[18]

Petitioner's contention is bereft of merit.

In their position paper, private respondents clearly explained how they were dismissed:

6 Respondents called the attention of the complainants upon learning that they had joined the PSSLU union, and forced them to sign a contract which they prepared, for those contractual and casual workers, when complainants refused to sign those papers, respondents got angry and terminated their services on December 27, 1990.[19]

and in their Comment private respondents retorted that they "simply found themselves out of (a) job as petitioner simply refused to let them work again."[20]

Finally, in his counter-affidavit, Engr. Ireneo Leyritana, Jr., petitioner's Vice President for Production, unwittingly revealed that:

9 On December 20, 1990, myself and the other officers of Pure Blue Industries, Inc. had an open dialogue with all of them, during which, one of our financiers got disgusted with their unreasonable approaches and told them that they can leave if they want to. They took that statement seriously.[21]

WHEREFORE, premises considered, the petition for certiorari is hereby DISMISSED. As to the award of

backwages, pursuant to our ruling in *Bustamante v. NLRC*,^[22] private respondents are "entitled to their full backwages, inclusive of allowances and other benefits or their monetary equivalent, from the time their actual compensation was withheld from them up to the time of their actual reinstatement."

SO ORDERED.

Padilla (Chairman), Bellosillo, Vitug, and Hermosisima, Jr., JJ., concur.

[1] Rollo, pp. 3, 28.

[2] *Id.*, at 40.

[3] *Ibid.*, *Id.*, at 15.

[4] *Id.*, at 20; 31-32.

[5] *Id.*, at 41.

[6] *Id.*, at 4, 26, 32.

[7] *Id.*, at 33-35.

[8] *Id.*, at 40-44.

[9] *Id.*, at 6.

[10] *Belaunzaran v. NLRC*, G.R. No. 120038, 23 December 1996; *Reno Foods, Inc. v. NLRC*, 249 SCRA 379 (1995); *Dagupan Bus Company, Inc. v. NLRC*, 191 SCRA 328 (1990).

[11] *General Textile, Inc. v. NLRC*, 243 SCRA 232 (1995).

[12] Rollo, p. 8.

[13] 248 SCRA 183 (1995); see also *De Ysasi III v. NLRC*, 231 SCRA 173 (1994); *People's Security, Inc. v. NLRC*, 226 SCRA 146 (1993).

[14] 250 SCRA 259 (1995); see also *Jones v. NLRC*, 250 SCRA 668 (1995); *Reno Foods, Inc. v. NLRC*, 249 SCRA 379 (1995); *Jardine Davies, Inc. v. NLRC*, 225 SCRA 757 (1993); *Villega v. NLRC*, 225 SCRA 537 (1993); *Nueva Ecija Electric Cooperative, Inc. v. Minister of Labor*, 184 SCRA 25 (1990); *Baliwag Transit, Inc. v. Ople*, 171 SCRA 250 (1989); *Santos v. NLRC*, 166 SCRA 759 (1988); *Shea I Industrial (Phils.) v. NLRC*, 764 SCRA 8 (1988); *Flexo Manufacturing Corp. v. NLRC*, 135 SCRA 145 (1985).

[15] Rollo, pp. 7, 51-52, 83.

[16] 115 SCRA 887 (1982); see also *Peñaflor v. NLRC*, 120 SCRA 68 (1983).

[17] Rollo, p. 30.

[18] *Id.*, at 7-8.

[19] *Id.*, at 20.

[20] *Id.*, at 67.

[21] *Id.*, at 51-52.

[22] G.R. No. 111651, 28 November 1996.

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