

SUNSHINE TRANSPORTATION, INCORPORATED, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND REALUCIO R. SANTOS, RESPONDENTS.

G.R. No. 116025. February 22, 1996

Ponente: DAVIDE JR., J.

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DAVIDE JR., J.:

This is a special civil action for certiorari under Rule 65 of the Rules of Court to set aside, for having been rendered with grave abuse of discretion, the 21 April 1994 decision[1] of the National Labor Relations Commission (NLRC) in NLRC Case No. 00528 1-93, entitled “Realucio R. Santos vs. Sunshine Transportation, Inc.,” which modified the decision[2] of the Labor Arbiter by allowing the private respondent’s money claimed in the amount of P158,000.00.

The antecedents are not disputed.

On 24 August 1989, petitioner Sunshine Transportation, Inc. hired private respondent Realucio R. Santos (hereinafter Santos) as a bus driver on a probationary basis. After six months, the former then extended the latter a regular appointment as “Bus Driver Class C” on 16 March 1990.[3]

On 7 January 1992, Santos received a memorandum[4] dated 4 January 1992 from the petitioner directing him to submit a written explanation within 48 hours as to why he failed to report for his trip scheduled on 28 December 1991. However, Santos claimed that on 2 January 1992, he applied for a leave of absence with the petitioner’s Operations Manager Danilo Alvarado; but Alvarado tore the leave application, verbally terminated his services, and even forced him off the premises. Santos then opted to mail his application for leave, also on 2 January 1992.[5]

Subsequently, Santos received a letter of termination dated 22 January 1992[6] premised on the grounds that: (1) he committed insubordination to a lawful order of his superior by failing to submit the required written explanation; and (2) such failure amounted to an admission of his guilt. Nonetheless, he kept reporting for work, but was not allowed entry into the company’s premises, prompting him to believe that he had been either suspended or dismissed.[7]

On 21 December 1992, Santos filed with the Labor Arbiter a complaint for (a) illegal suspension, (b) illegal dismissal, (c) illegal deduction of Bicol trip allowance, (d) non-payment of salaries, overtime pay, premiums for holidays, rest day and night shift, allowances, and separation pay. [8] He also prayed for reinstatement with back wages and moral damages.

On its part, the petitioner emphasized that prior to Santos’ misdeed of 28 December 1991, he had committed the following violations of company rules:

- failure to remit and account for cash collections in the amount of P3,716.00 under his custody.

- refusal to carry a passenger to her destination despite having a ticket and listed in the manifest.
- remittance of cash collections under his custody only after official demand.
- attempted illegal exaction of money from two passengers regarding their baggages [sic].
- stealing dogs.
- sexually harassing female passengers.
- arrogant use of company buses for personal use.
- punching-in of time card of another employee.
- failure to report for work without prior notice on 17 September. . . 1991.[9]

In his decision[10] of 30 June 1993, Labor Arbiter Eduardo J. Carpio dismissed the complaint upon a finding that Santos was dismissed for cause with due process and that he was not entitled to his money claims.

Santos appealed to the NLRC and, in its decision[11] of 21 April 1994, the NLRC upheld the Labor Arbiter's finding, but granted Santos' money claims in the amount of P158,000.00, as the petitioner "failed to refute the complainant's claim that he was underpaid." [12]

Unsatisfied with the NLRC decision, the petitioner filed the instant special civil action for certiorari charging the NLRC with having acted with grave abuse of discretion in rendering the decision. More concretely, it imputes to the NLRC the commission of the following errors: (1) in not dismissing the patently defective appeal of Santos due to his failure to comply with the mandatory requirements for perfecting an appeal; (2) in modifying the Labor Arbiter's decision by granting the private respondent's money claim without any factual nor legal basis; (3) in ruling that the private respondent's money claims for the year 1989 have not yet prescribed; and (4) in failing to give consideration to the waiver/quitclaim executed by the private respondent on 20 October 1992 discharging the petitioner from any obligation arising from his (private respondent's) claim for overtime pay.

In their respective Comments filed in compliance with the resolution of 25 July 1994, the public respondent, through the Office of the Solicitor General, and the private respondent prayed that we dismiss the petition for lack of merit.

The required Reply to the Comment of public respondent was belatedly filed by counsel for the petitioner after he was directed to show cause why he should not be held in contempt of court.[13]

We gave due course to this petition and required the parties to submit their respective memoranda, which they did, while the public respondent manifested that it adopted its comment as a memorandum.

We find for the respondents.

In the first place, the petitioner has not shown that other than this special civil action under Rule 65, it has no

plain, speedy, and adequate remedy in the ordinary course of law against its perceived grievance.

It is now settled in our jurisdiction that while it is true that the only way by which a labor case may reach this Court is through a petition for certiorari under Rule 65 of the Rules of Court, it must, however, be shown that the NLRC acted without or in excess of jurisdiction, or with grave abuse of discretion, and that there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law. Section 14, Rule VII of the New Rules of Procedure of the NLRC, which allows an aggrieved party to file a motion for reconsideration of any order, resolution, or decision of the NLRC, constitutes a plain, speedy, and adequate remedy which the said party may avail of. Accordingly, and in the light of the doctrine of exhaustion of administrative remedies,[14] a motion for reconsideration must first be filed before the special civil action for certiorari may be availed of.[15]

In the case at bench, the records do not show and neither does the petitioner make a claim that it filed a motion for the reconsideration of the challenged decision before it came to us through this action. It has not, as well, suggested any plausible reason for direct recourse to this Court against the decision in question.

WHEREFORE, the instant special civil action for certiorari is DISMISSED with costs against the petitioner.

SO ORDERED.

Narvasa, C.J. (Chairman), Melo, Francisco, and Panganiban, JJ., concur.

[1] Annex “L” of Petition; Rollo, 103-110. Per Rayala, R., Comm., with Bonto-Perez, E. and Zapanta, D., Comms., concurring.

[2] “H,” Id.; Id.; 71-80.

[3] Position Paper for the Complainant in NLRC NCR Case No. 0010-05857-92, 2; Rollo, 21.

[4] Rollo, 47.

[5] Position Paper, op. cit., 3; Id., 22-23

[6] Rollo, 48, 104. Sec. however, the complainant’s position paper filed before the Labor Arbiter wherein he alleged that the termination letter was dated 2 January 1992 (Original Records [OR], vol. 2, 151).

[7] Position Paper, op. cit., 4; Rollo, 23.

[8] Position paper, op. cit., 1; Rollo, 20.

[9] Rollo, 76.

[10] Id., 71-80.

[11] Rollo, 103-110.

[12] Id., 108.

[13] Counsel was ultimately admonished and warned that a repetition of the same or similar acts would be dealt with more severely.

[14] See Chua Huat vs. Court of Appeals, 199 SCRA 1, 19 [1991].

[15] Philippine National Construction Corp. vs. NLRC, 245 SCRA 668, 674-675 [1995].

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