

PHILIPPINE AIRLINES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, AND JOSEPH MENESES, RESPONDENTS.*G.R. No. 124456. December 05, 1997*

Ponente: DAVIDE, JR., J.

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Assailed in this petition under Rule 65 of the Rules of Court are the Resolutions of 31 May 1995[1] and 26 July 1995[2] of the National Labor Relations Commission (NLRC) in NLRC NCR 00-10-05685-92 (NLRC NCR CA 005274-93), a complaint for illegal dismissal filed by private respondent Joseph Meneses (hereafter, MENESES) against petitioner (hereafter, PAL). The first resolution dismissed petitioner's appeal from the 29 June 1993 decision[3] of Labor Arbiter Fatima Jambaro-Franco dismissing Meneses' complaint, but directed petitioner to pay Meneses separation pay equivalent to one-half month's pay for every year of service; while the second resolution denied petitioner's motion for reconsideration of the first.

The NLRC summarized the antecedent facts as follows:

Complainant alleged that he was a regular employee of respondent Philippine Airlines Corporation (PAL) whose employment started in November 1982; that on May 20, 1991 and June 28, 1991 he was suspended from the service for fraud and theft in connection with the irregular releases of autoparts for repairs and the irregular withdrawal/order of high temperature non-melt (Moly) grease without the approved purchase order (P.O.), respectively; that on September 2, 1991 complainant was dismissed for having released autoparts for repair even without the approved purchase order. Complainant further contended that the release and withdrawal of autoparts were all covered by appropriate documents, such as outgate and delivery receipts; that no damage or prejudice has been caused to respondents' properties; and that complainant was not afforded the required due process since no written notice of the charge was served upon him, neither was he afforded the opportunity to defend himself and present his evidence.

Upon the other hand, respondents contended that complainant Meneses was among the thirty two (32) employees charged in connection with the irregularities committed in the Ground Equipment Support Department and Corporate Logistics Department (GSED/CLD); that complainant was dismissed for giving [the] go-signal to Mr. Manuel Jarina, supervisor of GSED, to release ten (10) reparable to Peter's Auto Parts without the required P.O.; that prior to his dismissal, complainant was suspended for three (3) months for ordering high temperature non-melt moly grease without the approved P.O.; that in the course of the committee hearings, respondents discovered that there was tampering of the maintenance and engineering management information system (MEMIS) where class B items which are reparable items were misclassified as class C which are expendable items, which means that class C items, being non-reparable are sent to surplus or virtually thrown away; that due to his participation in the aforesaid anomaly, complainant was meted with one (1) month suspension. Respondents further averred that complainant had been afforded due process prior to his termination and that complainant was dismissed for having breached the trust and confidence reposed upon him by respondent company. [4]

On the basis of the respective position papers and other evidence submitted by the parties, the Labor Arbiter

found that MENESES had the propensity to disregard established rules and procedures of PAL such as: 1) ordering high temperature non-melt (Moly) grease without the required purchase order; 2) misclassifying items B, which could still be repaired, as items C, which were considered expendable; and 3) allowing Mr. Manuel Jarina to release ten autoparts for repair without the required purchase orders.

The Labor Arbiter further found MENESES to have been charged with the duties to negotiate for and/or award contracts or purchase orders to local and foreign suppliers, as such, his position required the highest degree of trust and confidence which was breached by his repeated disregard of company rules and procedures. Consequently, in her decision of 29 June 1993,[5] Labor Arbiter Fatima Jambaro-Franco concluded that his termination from service was justified.

Before the NLRC, MENESES imputed to the Labor Arbiter grave abuse of discretion for ignoring his documentary evidence and ruling that his preventive suspension and dismissal were valid. He contended that there was a standing policy implemented by the manager of his division to permit releases of repairable autoparts even without a purchase order; that the purchase of the Moly grease was initiated by a purchase order; and that he could not be dismissed for loss of confidence as he was a minor employee performing mere ministerial functions.[6]

In its decision of 31 May 1995, [7] the NLRC dismissed MENESES' appeal for lack of merit, but directed PAL "to pay ... Meneses separation benefits equivalent to half month[']s pay for every year of service due to reasons herein provided for."

As to MENESES' claim of a standing policy implemented by his division manager to permit releases of repairable autoparts without a purchase order, the NLRC found this directly refuted by PAL in its Reply. The NLRC likewise found that it was "only in extreme emergency requirements wherein the Manager-Ground Services support or the Director-GMM of PAL may authorize specific suppliers to deliver with a purchase order to follow," and that MENESES, in claiming otherwise, failed to prove that the standard practice was to allow repairables released even without a purchase order. In addition, the NLRC observed:

[W]e cannot fathom how complainant as a Materials Manager could so casually attempt to legitimize the commission of such an irregularity as ordering and receiving goods and supplies without the requisite p.o. knowing fully well that this deviated from standard procedure and left the door open for the commission of several possible offenses, such as those complainant was charged with.

Indeed, complainant's propensity for bending the rules was no more evident than in the purchase of Moly grease which admittedly was delivered without the purchase order's [sic] being released to the supplier. His flimsy excuse that he was not aware of the advanced delivery, cannot be given credence. No supplier, interested in maintaining good business relations with PAL would dare deliver supplies, not formally requested, unless he or she was given the "go signal" to deliver the supplies from the inside.

Besides, the records would indicate that instead of immediately returning the Moly grease to the supplier, complainant allowed the grease to be held while the supplier came forward to negotiate for the approval of the purchase order. He did not even initiate an inquiry on the irregularity of the delivery but was content to have the transaction considered completed, when the P.O. was finally approved.[8]

Anent MENESES' claim that he was a minor employee and could not, therefore, be dismissed on ground of lack of confidence, the NLRC held otherwise as he was "charged with the acquisition, handling, maintenance, care and protection of his employer's property." As to his assertion that he was denied due process, the NLRC likewise held against Meneses since he was formally notified of the charges against him and given the opportunity to explain his side on the matter and prepare his defense.

The NLRC, however, justified its award of separation pay, thus: "considering that [MENESES] has served [PAL]

for ten long years without any previous derogatory record for equitable considerations, taking into consideration that in cases of this nature, justice should be tempered with mercy and compassion.”

After denial of its motion for reconsideration,[9] PAL filed this special civil action wherein it submits that respondent NLRC committed grave abuse of discretion amounting to lack or excess of jurisdiction in awarding separation pay despite affirmance of the Labor Arbiter’s decision finding that MENESES was validly dismissed for cause.

In his Comment, MENESES merely focused on procedural issues and did not address the error raised by PAL. On the other hand, the Office of the Solicitor General agreed with PAL that since MENESES’ dismissal was valid, the award of separation pay was tainted with grave abuse of discretion.

We rule for PAL.

The sole issue before us is the propriety of the award by NLRC of separation pay to MENESES despite the finding that he was validly dismissed for cause. This is not a novel question and we find the instant petition meritorious.

In the leading case of *Philippine Long Distance Co. v. NLRC*,[10] we set the policy as to the award of separation pay for validly dismissed employees, i.e., it shall be allowed as a measure of social justice only when the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Thus, if the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, separation pay, or financial assistance, or by whatever other name it is called, may not be allowed on the ground of social justice. The policy of social justice is not intended to countenance wrongdoing, and it matters not that the wrongdoing is committed by the underprivileged for which, at best, the policy may mitigate the penalty but certainly will not condone the offense. Compassion for the poor is an imperative of every humane society, that should be so only when the recipient is not a rascal claiming an undeserved privilege. Social justice cannot be permitted to be the refuge of scoundrels any more than can equity be an impediment to the punishment of the guilty. Those who invoke social justice may do so only if their hands are clean and their motives blameless, and not simply because they happen to be poor. This great policy of the Constitution was never meant to protect those who have proved themselves unworthy, like the workers who have tainted the cause of labor with the blemishes of their own character.[11]

We have since applied the abovementioned rule in numerous cases[12] where the employee was validly dismissed due to either serious misconduct or causes reflecting on his moral character. We see no compelling reason to rule differently here.

The Labor Arbiter found MENESES engaged in highly anomalous activities constituting serious misconduct in connection with his work. This was unqualifiedly affirmed by the NLRC. The latter, therefore, acted with grave abuse of discretion when it awarded separation pay to MENESES despite such finding.

WHEREFORE, the petition is GRANTED. The challenged resolutions of public respondent National Labor Relations Commission of 31 May 1995 and 26 July 1995 in NLRC NCR CA No. 005274-93 (NLRC NCR 00-10-05685-92) are MODIFIED by deleting the award of separation pay.

No pronouncement as to costs.

SO ORDERED.

Bellosillo, Vitug, and Kapunan, JJ., concur.

[1] Annex “A” of Petition, Rollo, 11-20, Per Commissioner Victoriano R. Calaycay with Commissioners Raul T. Aquino and Rogelio I. Rayala, concurring.

[2] Annex “B” of Petition, Id., 21.

[3] Annex 2 of Memorandum for Private Respondent, Id., 141-146.

[4] Rollo, 11-13.

[5] Supra note 3.

[6] Id., 13-14.

[7] Supra note 1.

[8] Rollo, 15-16.

[9] Supra note 2.

[10] 164 SCRA 671 [1988].

[11] 164 SCRA, 682-683 [1988].

[12] Eastern Paper Mills, Inc. v. NLRC, 170 SCRA 595 [1989]; Cosmopolitan Funeral Homes, Inc. v. Maalat, 187 SCRA 108 [1990]; Club Filipino, Inc. v. Sebastian, 211 SCRA 716 [1992]; Chua v. NLRC, 218 SCRA 545 [1993]; Zenco Sales, Inc. v. NLRC, 234 SCRA 689 [1994]; Flores v. NLRC, 256 SCRA 735 [1996].

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