

**PHILIPPINE MILITARY VETERANS SECURITY AND INVESTIGATION AGENCY AND/OR RAMON MACOROL, PETITIONERS, VS. COURT OF APPEALS, NATIONAL LABOR RELATIONS COMMISSION, TEODULO C. ALCOVENDA...**

*G.R. NO. 139159. January 31, 2006*

Ponente: CARPIO, J.

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**CARPIO, J.:**

The Case

This is a petition for review[1]of the Decision[2] dated 31 March 1999 and the Resolution dated 23 June 1999 of the Court of Appeals in CA-G.R. SP No. 51930. The Court of Appeals dismissed the special civil action for certiorari, assailing the resolution of the National Labor Relations Commission ("NLRC"). The NLRC affirmed the decision of the Labor Arbiter holding that Teodulo C. Alcovendas, Cesar W. Labrador,[3] and Jordan T. Tacanloy ("private respondents") were illegally dismissed.

The Facts

On 13 July 1993, Teodulo C. Alcovendas ("Alcovendas"), Cesar W. Labrador ("Labrador"), and Jordan T. Tacanloy ("Tacanloy") filed a case against Philippine Military Veterans Security and Investigation Agency and its President and General Manager, Ramon Macorol ("petitioners") for illegal dismissal, underpayment of wages, non-payment of overtime pay, holiday pay, night differential pay, service incentive leave pay, rest day pay, and 13[th] month pay.

The evidence submitted by private respondents to the Labor Arbiter show their employment record with Philippine Military Veterans Security and Investigation Agency ("PMVSIA") as follows:

1) Teodulo Alcovendas

8/31/85 - 12/31/86

1/1/87 - 12/30/90

1/1/91 - 8/31/92

8/31/92 - 2/23/93

Security Guard

Security Guard

Security Officer

Inspector

P1,000/month

P1,200/month  
P1,600/month  
P2,500/month

2) Cesar W. Labrador

8/6/86 - 1/30/87  
1/1/87 - 1/8/91  
1/9/91 - 3/31/92

Security Aide/LO  
LO/Inspector  
Operation Manager

P2,000/month  
P2,500/month  
P3,000/month

3) Jordan T. Tacanloy

2/20/92 - 2/28/93  
3/1/93 - 8/18/93

Security Guard  
Security Guard

P2,300/month  
P3,200/month[4]

Petitioners claim that Alcovendas resigned from his job. However, petitioners failed to present a copy of Alcovendas' resignation letter because Alcovendas allegedly stole it from petitioners' files to make it appear that he did not resign from his job. The prosecutor dismissed the case for qualified theft that petitioners filed against Alcovendas. However, petitioners insist that the dismissal is not binding on the labor tribunal. Petitioners assert that dismissal for loss of confidence based on suspected theft of company property is a valid cause for dismissal even if the employee is subsequently acquitted.

Petitioners allege that the dismissal of Labrador and Tacanloy was due to loss of trust and confidence. As Operations Manager, Labrador allegedly accepted unqualified applicants for security guards and facilitated the processing of their papers. Tacanloy, on the other hand, allegedly engaged in black propaganda intended to discredit petitioners' reputation. Petitioners further allege that Tacanloy, in connivance with Alcovendas and Labrador, filed a malicious suit against petitioners.

On 8 July 1996, the Labor Arbiter rendered a decision in favor of private respondents. The Labor Arbiter held that petitioners illegally dismissed private respondents. The Labor Arbiter ordered the payment of separation pay in lieu of reinstatement. In the computation of the money claims, the Labor Arbiter took into consideration the three-year prescriptive period within which money claims should be filed.[5] The dispositive portion of the Labor Arbiter's Decision reads:

WHEREFORE, judgment is hereby rendered ordering respondents to pay complainants the total amount of

P80,829.46 representing their separation pay and underpayment of wages inclusive of 10% attorney's fees, individually computed as follows:

**- TEODULO C. ALCOVENDAS:**

Underpayment

7/21/90 - 01/07/91 = 5.53 mos.

P3,959.55 - P3,843.84 = P115.71

x 5.53 mos. = ----- P 639.88

1/08/91 - 02/23/93 = 25.50 mos.

P4,402.12 - P3,843.84 = P558.28

x 25.50 mos. = ----- 14,236.14

**P14,876.02**

Separation Pay

P4,402.12/2 x 8 years = ----- P17,608.48

Attorney's fees = ----- \_3,248.45

Total ----- P35,732.95

**- CAESAR LABRADOR**

Underpayment

7/21/90 - 1/07/91 = 5.53 mos.

P3,959.55 - P3,843.84 = P115.71

x 5.53 mos. = ----- P 639.88

1/08/91 - 3/31/93 = 26.76 mos.

P4,402.12 - P3,843.84 = P558.28

x 26.76 mos. = ----- 14,939.57

**P15,579.45**

Separation Pay

P4,402.12/2 x 6 years = ----- 13,206.36

Attorney's fees = ----- 2,878.58

Total ----- P 31,664.39

**- JORDAN T. TACANLOY**

Underpayment

2/20/92 - 8/18/93 = 17.93 mos.

P4,402.12 - P3,843.84 = P558.28

x 17.93 mos. = ----- P10,009.96

Separation Pay

P4,402.12/2 x 1 year = - - - - - 2,201.06

Attorney's fees = - - - - - 1,221.10

Total - - - - - P13,432.12

Grand Total - - - - - P80,829.46

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### **SO ORDERED.[6]**

On appeal, the NLRC affirmed the Labor Arbiter's decision. Upon denial of their motion for reconsideration, petitioners filed a special civil action for certiorari with the Court of Appeals.

On 31 March 1999, the Court of Appeals dismissed the special civil action for certiorari. Hence, this petition.

Issue

The sole issue is whether the Court of Appeals erred in affirming the resolution of the NLRC, which upheld the decision of the Labor Arbiter that petitioners illegally dismissed private respondents who should therefore receive separation pay, backwages, attorney's fees and salary differential.

The Ruling of the Court

The petition is without merit.

Factual Findings of the Labor Arbiter and the NLRC

We uphold the ruling of the Court of Appeals sustaining the findings of the Labor Arbiter and the NLRC that petitioners illegally dismissed private respondents. The Court of Appeals held that the evidence on record supported such findings.[7]

Factual findings of labor officials, who possess the expertise in matters within their jurisdiction, have conclusive effect on this Court provided substantial evidence support such factual findings.[8] More so in this case, where the findings of the Labor Arbiter and the NLRC coincide, and the Court of Appeals sustained such findings.[9]

As found by the Labor Arbiter and the NLRC, petitioners failed to prove their assertion that Alcovendas voluntarily resigned. Petitioners assert that Alcovendas stole his letter of resignation. However, the Prosecutor dismissed for insufficiency of evidence the charge for qualified theft against Alcovendas for allegedly stealing company documents, including his own letter of resignation.[10] In the labor case, petitioners also failed to present substantial evidence to establish the charge of qualified theft against Alcovendas.

Petitioners were likewise unable to support their claim that Labrador was involved in faking the licenses of security guards who were not qualified. The Labor Arbiter held:

Respondents herein alleged that Labrador was validly terminated on June 5, 1993 for dishonesty involving the faking of guards' licenses. Again, this alleged offense was never established by evidence. Invisible on record are the supposed documents issued to Labrador such as the notice of offense, notice requiring him to explain and the sworn statement of witnesses attesting to the charge. Even the very letter of termination dated June 14, 1993 served to Labrado[r] terminating the latter's services does not contain the alleged cause for his termination. We therefore rule that the termination of complainant Labrador from employment was contrary to law.[11]

Petitioners also failed to substantiate their claim that Tacanloy engaged in black propaganda to discredit petitioners' reputation. The Labor Arbiter held that petitioners failed to establish fraud and breach of trust on the part of Tacanloy which would justify termination of his employment.[12]

We find no reason to deviate from the findings of the Labor Arbiter and the NLRC. Petitioners failed to substantiate their allegations and accusations against private respondents. Although proof beyond reasonable doubt is not required, substantial evidence is necessary and the burden lies on the employer to establish that there was no illegal dismissal.[13] This is in accord with Article 277 of the Labor Code, which explicitly states that the employer has the burden of proving that the termination of the employee is for a valid or authorized cause. The petitioners failed to discharge this burden, which makes a finding for illegal dismissal inevitable.[14]

#### Loss of Trust and Confidence

Article 282(c) of the Labor Code provides that an employer may terminate an employee for fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative. An employer cannot be compelled to continue the employment of an employee who is guilty of acts inimical to the interest of the employer and which justifies loss of confidence in the employee.[15] However, the right of an employer to terminate an employee based on loss of confidence must not be exercised arbitrarily and without just cause.[16]

In *Northwest Tourism Corp. v. Court of Appeals, Former Special Third Division*,[17] we held:

Loss of trust and confidence as a ground for dismissal does not entail proof beyond reasonable doubt of the employee's misconduct. However, the evidence must be substantial and must establish clearly and convincingly the facts on which the loss of confidence in the employee rests. To be a valid reason for dismissal, loss of confidence must be genuine. Uncorroborated assertions and accusations by the employer will not suffice, otherwise it will jeopardize the constitutional guaranty of security of tenure of the employee.

In this case, petitioners failed to prove the acts and misconduct imputed upon private respondents which would justify their dismissal on the ground of loss of confidence.

#### Salary Differential, Attorney's Fees, Separation Pay, and Backwages

We affirm the award of salary differential.[18] As found by the Labor Arbiter, PMVSIA paid private respondents wages which were below the minimum rate for security guards as prescribed and adopted by the Philippine Association of Detective [and Protective] Agency Operators, Inc. (PADPAO).[19] Petitioners failed to refute the Labor Arbiter's finding of underpayment of wages.

We also sustain the award of attorney's fees. We have held that "[i]n actions for recovery of wages or where an employee was forced to litigate and incur expenses to protect his rights and interest, he is entitled to an award of attorney's fees." [20]

We, however, modify the amount of separation pay. The payment of separation pay may be granted when reinstatement is no longer feasible.[21] Separation pay is equivalent to one (1) month pay for every year of service up to the finality of this Decision. Thus, the computation for the separation pay should be adjusted accordingly.

Finally, we rule that private respondents are entitled to backwages. Article 279 of the Labor Code reads:

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.

In accordance with this provision, illegally dismissed private respondents are entitled to full backwages, inclusive of allowances and other benefits. Where reinstatement is no longer possible, as in this case, the backwages shall be computed from the time of the employee's illegal termination up to the finality of the decision.[22]

WHEREFORE, we AFFIRM with MODIFICATION the Decision of the Court of Appeals dated 31 March 1999 and its Resolution dated 23 June 1999. We SUSTAIN the award of salary differential and attorney's fees. We REMAND this case to the Labor Arbiter for the computation, within thirty days from receipt of this Decision, of separation pay and backwages, inclusive of allowances and other benefits due to Teodulo C. Alcovendas, Cesar W. Labrador and Jordan T. Tacanloy, from the time of their illegal dismissal until the finality of this Decision.

**SO ORDERED.**

Quisumbing, (Chairperson), Carpio-Morales, and Tinga, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Ramon A. Barcelona, with Associate Justices Demetrio G. Demetria and Presbitero J. Velasco, Jr. concurring.

[3] Name was spelled as "Caesar" in the Labor Arbiter's Decision and the NLRC Resolution.

[4] Rollo, pp. 24-25.

[5] Article 291 of the Labor Code provides that "all money claims arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time that cause of action accrued; otherwise they shall be forever barred."

[6] Rollo, pp. 29-30.

[7] Id. at 86.

[8] *Ramatek Philippines, Inc. v. Reyes*, G.R. No. 139526, 25 October 2005; *Philippine Airlines, Inc. v. Tongson*, G.R. No. 153157, 14 October 2003, 413 SCRA 344; *Philippine Airlines, Inc. v. Pascua*, G.R. No. 143258, 15 August 2003, 409 SCRA 195.

[9] See *Urbanes, Jr. v. Court of Appeals*, G.R. No. 138379, 25 November 2004, 444 SCRA 84; *Tres Reyes v. Maxim's Tea House*, 446 Phil. 388 (2003); *NYK Int'l Knitwear Corp. Phils. v. NLRC*, 445 Phil. 654 (2003); *Metro Transit Organization, Inc. v. Court of Appeals*, 440 Phil. 743 (2002).

[10] CA rollo, pp. 22-23.

[11] Id. at 23.

[12] Id. at 23-24.

[13] *Sevillana v. I.T. (International) Corp.*, G.R. No. 99047, 16 April 2001, 356 SCRA 451; *Midas Touch Food Corp. v. NLRC*, G.R. No. 111639, 29 July 1996, 259 SCRA 652.

[14] *Mayon Hotel & Restaurant v. Adana*, G.R. No. 157634, 16 May 2005, 458 SCRA 609; *Maneja v. NLRC*, 353 Phil. 45 (1998); *Caurdanetaan Piece Workers Union v. Laguesma*, 350 Phil. 36 (1998).

[15] See *Fujitsu Computer Products Corporation of the Philippines v. Court of Appeals*, G.R. No. 158232, 31

March 2005, 454 SCRA 737; Agabon v. National Labor Relations Commission, G.R. No. 158693, 17 November 2004, 442 SCRA 573.

[16] P.J. Lhuillier, Inc. v. National Labor Relations Commission, G.R. No. 158758, 29 April 2005, 457 SCRA 784.

[17] G.R. No. 150591, 27 June 2005, 461 SCRA 298.

[18] In the dispositive portion of his decision, the Labor Arbiter used the term "Underpayment" in referring to the award of salary differential to private respondents.

[19] Rollo, pp. 24-25.

[20] Mayon Hotel & Restaurant v. Adana, G.R. No. 157634, 16 May 2005, 458 SCRA 609.

[21] Electruck Asia, Inc. v. Meris, G.R. No. 147031, 27 July 2004, 435 SCRA 310.

[22] Chronicle Securities Corporation v. National Labor Relations Commission, G.R. No. 157907, 25 November 2004, 444 SCRA 342; Philippine Journalists, Inc. v. Mosqueda, G.R. No. 141430, 7 May 2004, 428 SCRA 369; Buhain v. Court of Appeals, 433 Phil. 94 (2002).

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