

OPERATOR'S INC., PETITIONER, VS. NATIONAL LABOR UNION, RESPONDENT.

G.R. No. 15073. May 26, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is a petition for review by way of appeal from a decision of the Court of Industrial Relations penned by Hon. Judge Baltazar M. Villanueva which dismisses the complaint for unfair labor practice filed by complainant union against respondent, while on the other hand, orders the immediate reinstatement of Rosalia Ricohermoso without backpay to her former position and without loss of rights and diminution of privileges.

The facts as found by the industrial court are: Rosalia Ricohermoso was a daily wage worker of the Operator's Inc. having been employed by it since January 27, 1954; that on April 8, 1957, she absented herself from work without first obtaining permission from the management because she eloped; that on May 21, 1957, she reported for work but was asked by the manager to file a new application form so that she could be re-admitted; that Rosalia Ricohermoso refused to follow the suggestion because she would be a newcomer and she wanted to be reinstated to her old position; and that she refused to work since then, whereupon the National Labor Union, of which Rosalia is a member, filed a complaint for unfair labor practice against the company alleging, among other things, that Rosalia was dismissed on May 21, 1957 for being a member of said union and for having participated in the petition for the removal of respondent's forewoman, Florentina Wi.

Respondent corporation answered the complaint specifically denying the charge of unfair labor practice and alleging as special defense that because Rosalia absented herself from work without previous permission on April 8, 1957 and failed to report for work on the following days, the management considered her to have abandoned her job thus justifying the company in employing another worker to replace her.

After trial, the industrial court found that the evidence of the complainant on the charge of unfair labor practice is "shadowy and unsubstantial" and dismissed the same. However, having found that there was no animus of abandonment on her part but that her absence was merely due to her elopement, and that if she was not able to continue working it was not because she was dismissed but because of the requirement that she file a new application for employment which she refused, the industrial court ordered her reinstatement without loss of rights and diminution of privileges as stated in the early part of this decision. Hence the present appeal.

The errors assigned by petitioner are: (1) that the lower court erred in holding that the continuous absence of Rosalia Ricohermoso did not constitute abandonment of her work but was merely due to her sudden elopement and intervening weakness and affection; and (2) that the lower court erred in ordering her immediate reinstatement to her former position without loss of rights and diminution of privileges.

After finding that the management has not committed any act of unfair labor practice when it considered Rosalia as having abandoned her employment for having left the same without first obtaining permission from the manager as required by a standing policy of the company, the industrial court made the following comment:

"The truth of the matter is that Ricohermoso was required to file an application for employment on that day because of her absence from April 8, 1957, to May 21, 1957. When she was absent on those days without previous permission from the management, she was considered as having abandoned her employment. In fact she admitted having been absent for those days without obtaining previous permission from management because she eloped and went to Apalit, Pampanga. She justified her absences by declaring that after the elopement she was sick of influenza and small pox. But this is no justification for violating a standing policy of respondent of which she herself knew. This policy was that before any employee could take a leave of absence, he must first secure permission from the management a day in advance."

As it would appear, notwithstanding the conclusion of the court that Rosalia's absence without first obtaining the permission of the manager is not a justification for violating a standing policy of the company because she eloped with the man she loved, yet it ordered her reinstatement without backpay, because she did so in response to an overpowering impulse of love. Thus, the industrial court commented: "As rational part of creation, we are all subject to the Divine Command that we must grow and multiply to cover the earth. Hence, we are subjected to the omnipotent sway of instinctive love and mating for our survival. And to this universal cycle of life, Rosalia Ricohermoso, like anyone of us, is no exception."

With this conclusion we disagree, for it is inconsistent with the finding that Rosalia left her employment without previous permission of the manager and stayed away for about one month and a half contrary to the standing policy of the company that before leaving she must obtain previous permission. This requirement is reasonable its purpose being undoubtedly to enable the management to make the necessary adjustment in order that the work may not be paralyzed. The court itself found that the elopement of Rosalia is "no justification for violating a standing policy of respondent which she herself knew." But this is not all. When she returned to work after such long absence the management did not exactly turn her away but merely required her to file a new application because of its belief that she had already abandoned her work, another requirement which we find reasonable, but she refused, and instead she instituted the present action charging the company with unfair labor practice. Such attitude is indeed reprehensible and, in our opinion, justifies her separation from the service.

At this point, we find it fitting to quote what this Court has said in a similar case: "But much as we should expand beyond economic orthodoxy, we hold that an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interest. The law in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer" (San Miguel Brewery, Inc. vs. National Labor Union, et al., 97 Phil., 378).

Wherefore, the decision appealed from is modified in the sense that Rosalia Ricohermoso is not entitled to reinstatement. No costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, and Gutierrez David, JJ., concur.
Barrera, J., reserves his vote.

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