CRISLYNDON T. SADAGNOT, PETITIONER, VS. REINIER PACIFIC INTERNATIONAL SHIPPING, INC. AND NEPTUNE SHIPMANAGEMENT SERVICES, PTE., LTD. OF SINGAPORE, RESPONDENTS.

G.R. NO. 152636. August 08, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 15 March 2002 Decision[2] of the Court of Appeals in CA-G.R. SP No. 52310. The Court of Appeals affirmed the 14 September 1998 Decision and 10 February 1999 Resolution of the National Labor Relations Commission (NLRC).

The Antecedent Facts

Reinier Pacific International Shipping, Inc. and its foreign principal Neptune Shipmanagement Services Pte., Ltd. of Singapore (respondents) hired Crislyndon T. Sadagnot (petitioner) as Third Officer of the vessel MV Baotrans. Petitioner's contract was for ten months with basic monthly salary of US$650. Petitioner boarded MV Baotrans on 19 August 1995.

Petitioner alleged that while on board MV Baotrans, the vessel's Master ordered him to perform hatch stripping, a deck work. Petitioner refused the order on the ground that it was not related to his duties as Third Officer. Petitioner alleged that when the order was issued, he was on watch standing duty and was doing nautical publications as required by standard maritime practice. Petitioner alleged that because of his refusal to obey the order, the Master made several negative reports against him. On 2 March 1996, respondents repatriated petitioner to the Philippines.

Upon his arrival, petitioner executed a release document in favor of respondents stating that he had received all the amounts due him and he has no cause of action against respondents. On 9 May 1996, petitioner filed an action for illegal dismissal, non-payment of allotment, termination pay, damages, and attorney's fees against respondents. Petitioner alleged that he was prematurely repatriated without being given the opportunity to avail of the company's grievance procedure.

Respondents alleged that petitioner was repatriated because of his willful disregard of and failure to obey the Master's lawful orders. Respondents alleged that petitioner's refusal to obey the order constituted insubordination and was a direct affront to the authority of the Master.

The Rulings of the Labor Arbiter and the NLRC

In a Decision[3] dated 28 April 1998, the Labor Arbiter ruled in favor of petitioner, thus:

> WHEREFORE, premises considered, respondents, REINIER PACIFIC INTERNATIONAL SHIPPING, INC., Neptune Shipmanagement Services Pte., Ltd./Singapore, are jointly and solidarily liable to pay complainant,

> CRISLYNDON T. SADAGNOT, the following:
>
> a) US$1,950.00 in its peso equivalent at the time of payment, representing three (3) months of unexpired term (US$650 x 3) in accordance with Sec. 10 of RA 8042.
>
> b) P5,000.00 by way of penalty for non-observance of due process, and
>
> c) 10% attorney's fees on top of the total award.
>
> SO ORDERED.[4]

Respondents filed an appeal before the NLRC.

On 14 September 1998, the NLRC set aside the Labor Arbiter's Decision. The dispositive portion of the NLRC Decision[5] reads:

> WHEREFORE, the decision appealed from is SET ASIDE. Respondents Reinier Pacific International Shipping, Inc. and Neptune Shipmanagement Services Pte., Singapore are hereby ordered to jointly and severally liable to pay (sic) complainant Crislyndon T. Sadagnat (sic) the sum of TEN THOUSAND PESOS (P10,000.00) as indemnity for non-observance of due process in effecting his dismissal for cause.
>
> SO ORDERED.[6]

Petitioner filed a motion for reconsideration. In its 10 February 1999 Resolution,[7] the NLRC denied petitioner's motion.

Petitioner filed a petition for certiorari with the Court of Appeals.

The Ruling of the Court of Appeals

In its 15 March 2002 Decision, the Court of Appeals affirmed the NLRC Decision. The Court of Appeals ruled that petitioner's act of not following the Master's order is a serious misconduct or willful disobedience under Article 282 of the Labor Code. The Court of Appeals noted that petitioner's repatriation was based on a report in the logbook duly signed by the Master and the Chief Officer.

The dispositive portion of the Decision of the Court of Appeals reads:

> WHEREFORE, premises considered, the instant petition is DENIED DUE COURSE and accordingly DISMISSED for lack of merit. The assailed decision dated September 14, 1998 and the Resolution dated February 10, 1999 of the National Labor Relations Commission in NLRC NCR OCW CN 00-05-1856-96 (CA NO. 015582-98) are hereby AFFIRMED in toto.
>
> SO ORDERED.[8]

Petitioner filed a petition for review before this Court.

The Issues

Petitioner raises the following issues before the Court:

- Whether the Court of Appeals erred in adopting the logbook entry as evidence of petitioner's misconduct;
- Whether petitioner was validly dismissed from employment; and
- Whether there is legal basis for the award of P10,000 indemnity to petitioner.

The Ruling of this Court

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The petition is partly meritorious.

Petitioner alleges that the Court of Appeals erred in adopting the Master's logbook entry as evidence of his supposed misconduct. Petitioner also alleges that the Court of Appeals erred in interpreting his actions as serious misconduct or willful disobedience under Article 282 of the Labor Code. Petitioner further alleges that the indemnity awarded to him for respondents' non-observance of due process has no legal basis and is not commensurate to the damage caused by respondents.

On Petitioner's Signature on Verification of the Petition

Respondents allege that petitioner's signature on the verification of the petition is "a poor facsimile of the signature of petitioner, as appearing in the records of Reinier Pacific."[9] Respondents submitted to the Court an undated contract signed by petitioner. Hence, respondents allege that the petition should be dismissed outright unless petitioner could prove that he really signed the verification.

Even if we assume that the undated contract submitted by respondents was the contract signed by petitioner in August 1995, respondents' allegation must fail. The petition was filed on 6 May 2002. There was a lapse of almost seven years between the signing of the two documents. There is no sufficient proof that petitioner's signature on the verification was forged just because it was not exactly the same as petitioner's signature on the contract. Hence, the Court finds no reason to dismiss the petition on this ground.

Evidentiary Value of the Entry in the Logbook

On 10 February 1996, the Master entered the following in the vessel's logbook:

> Mr. Crislyndon T. Sadagn[o]t, Third Officer[,] was instructed by the Master to hand over watch to Master and go on deck to assist Chief Officer in trying out hatch stripping actions as vessel received instructions from NOL-CD to keep every equipment ready for next voyage in tanker mode. Against the Master['s] instructions he argued that he had lots of corrections to do in the list of lights and sailing directions. He was told to give priority to deck work in order to prepare the vessel for tanker mode prior to loading at Richards bay on 22 February 1996 x x x.[10]

Petitioner alleges that the Court of Appeals erred in giving credence to the logbook entry instead of the Joint Statement[11] by his crew mates attesting, among other things, to the fact that there were 12 deck crews on deck at the time who would be able to handle the hatch stripping if they were ordered to do so.

The ship's logbook is the official record of a ship's voyage which its captain is obligated by law to keep.[12] It is where the captain records the decisions he has adopted, a summary of the performance of the vessel, and other daily events.[13] The entries made in the ship's logbook by a person performing a duty required by law are prima facie evidence of the facts stated in the logbook.[14]

Petitioner failed to prove that the entry was fabricated by the Master. While petitioner claimed that the Master entered untruthful reports in the logbook, he also admitted that he did not obey the Master's order and "even suggested that it would be better if the hatch stripping shall be performed, as it should, by an able-bodied seaman."[15] Hence, we sustain the Court of Appeals in giving weight to the logbook entry.

Willful Disobedience as Ground for Dismissal from the Service

Petitioner alleges that his act does not constitute serious misconduct or willful disobedience that warrants his dismissal. Petitioner alleges that the Master wanted him to perform work that was not related to his contracted services as a Third Officer. He alleges that hatch stripping is the duty of an able seaman, and at the time that the Master ordered him to perform hatch stripping, there were able-bodied seamen on the deck who could do the job.

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Petitioner emphasizes that he was on watch duty when the Master commanded him to a job that was not included in his duties as a Third Officer.

Petitioner's duties as a Third Officer are as follows:

> 2.2.4 INSTRUCTIONS TO THE THIRD OFFICER (3/0)
>
> The Third Officer reports to the Master on navigational matters and the Chief Officer on cargo, maintenance and operational matters.
>
> 2.2.4.1 The Third Officer shall be directly responsible to the Chief Officer who will assign him to duties both at sea and in port.
>
> 2.2.4.2 His duties and responsibilities will include the efficient maintenance and upkeep of:
>
> a) All Life Saving appliances (LSA) and lifeboats.
> b) Fire Fighting Appliances (FFA).
> c) Manual fog and emergency signaling equipment.
> d) Visual communication gear and equipment and the keeping of complete records on the above.
>
> 2.2.4.3 The Third Officer shall be responsible for ensuring that the courtesy ensigns for the countries that the vessel will call at, are on board well before reaching those countries and that the vessel is dressed overall on Singapore's National Day or any other occasion when notified by the local Port authority.
>
> 2.2.4.4 The Third Officer shall be directly responsible to the Chief Officer for the efficient management of cargo operations and the ship's safety during the working periods assigned to his charge.
>
> While on cargo watch or deck duty he shall ensure that all equipment and working gears are correctly rigged and being worked in a safe manner that are conducive to the safe working limits, state, and age of that equipment. Comply with duties of 0.0.W. in port and anchor defined in OPM.
>
> 2.2.4.5 The Third Officer with superior certificate shall spend some time correcting charts and maintaining bridge equipment and publications and be familiar with the duties and responsibilities of the 2/0. Satisfactory performance of this training shall be recorded in the TPRB.

2.2.4.6 The Third Officer shall carry out duties assigned by the Master other than those mentioned herewith.

2.2.4.7 The Third Officer shall prepare a handing/taking over report containing his general duties and other special requirements that are special to the vessel prior to being relieved. This report shall be given to the relieving officer and acknowledged by the Master.[16] (Emphasis supplied)

Petitioner's duties clearly indicate that he shall carry out duties assigned by the Master. Petitioner cannot claim that the order to assist in hatch stripping was beyond his duties as a Third Officer because it is covered under "duties assigned by the Master." The Court of Appeals, citing the NLRC, also ruled that petitioner's work as desk officer necessarily entails responsibility over the deck crew and includes supervision of their work and maintenance of deck equipment.[17]

Petitioner insists that there was no urgent need to perform deck work at the time the Master issued the order since loading was still 12 days from the time he was ordered to do hatch stripping. He also alleges that the fact that the vessel was not ready for the next cargo loading should not be attributed to him and only the Master was to blame for any delay. The urgency of the work to be done is within the sound discretion of the Master and is not for petitioner to decide. Petitioner's attitude only emphasized his disposition to disobey the Master.

Article 282 of the Labor Code provides:

> ART. 282. Termination by employer. - An employer may terminate an employment for any of the following causes:
>
> (a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;
>
> x x x x

Willful disobedience requires the concurrence of two requisites: (a) the employee's assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and (b) the order violated must have been reasonable, lawful, made known to the employee, and must pertain to the duties which he had been engaged to discharge.[18]

Again, petitioner does not deny that he refused to obey the Master's order. The Master's order was not unreasonable or unlawful as he received instructions to prepare the vessel for the next voyage in tanker mode. Petitioner's allegation that there were able-bodied seamen willing to do the work was not substantiated. Petitioner submitted a Joint Statement executed by some officers of the vessel but not one of the seamen he referred to executed any affidavit to prove the allegation. As regards petitioner's objection that he was on duty, the Master instructed petitioner to hand over the watch to him. Finally, since petitioner's duties include "duties assigned by the Master," we cannot sustain petitioner's allegation that the order is not part of his duties as a Third Officer.

Since petitioner was dismissed from employment for a valid cause, he in not entitled to any salary for the unexpired portion of his employment contract.[19]

Observance of Due Process

Petitioner alleges that he was not afforded his right to due process. He further alleges that the indemnity awarded to him by the NLRC and the Court of Appeals is not commensurate to the damage caused by respondents.

Respondents failed to observe the necessary procedural safeguards. In termination cases, the employer must furnish the employee with two written notices before termination of employment can be legally effected: (a) a notice which apprises the employee of the particular acts or omissions for which his dismissal is sought, and (b) the subsequent notice which informs the employee of the employer's decision to dismiss him.[20] There is nothing in the records showing that respondents complied with the two-notice requirement.

In Agabon v. NLRC,[21] we ruled that if the dismissal is for a just cause, the lack of statutory due process should not nullify the dismissal, or render it illegal or ineffectual. The violation of petitioner's right to due process only warrants the payment of indemnity in the form of nominal damages, the amount of which is addressed to the sound discretion of the Court, taking into consideration the relevant circumstances.[22] However, we agree with petitioner that the amount of indemnity awarded to him is insufficient. Considering the circumstances in this case and in line with prevailing jurisprudence, we deem it proper to increase the amount of nominal damages from P10,000 to P30,000.[23]

WHEREFORE, we AFFIRM the 15 March 2002 Decision of the Court of Appeals in CA-G.R. SP No. 52310 with MODIFICATION by increasing the amount of nominal damages awarded to petitioner Crislyndon T. Sadagnot to P30,000.

SO ORDERED.

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

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

[2] Rollo, pp. 30-37. Penned by Associate Justice B. A. Adefuin-De la Cruz with Associate Justices Wenceslao I. Agnir, Jr. and Josefina Guevara-Salonga, concurring.

[3] CA rollo, pp. 45-48. Penned by Labor Arbiter Salimathar V. Nambi.

[4] Id. at 47-48.

[5] Id. at 31-41. Penned by Commissioner Ireneo B. Bernardo with Presiding Commissioner Lourdes C. Javier and Commissioner Tito R. Genilo, concurring.

[6]Id. at 41.

[7] Id. at 43-44.

[8] Rollo, p. 36.

[9] Id. at 117.

[10] CA rollo, p. 39.

[11] Id. at 109. Erroneously denominated as "Joined Statement."

[12] Cansino v. Prudential Shipping and Management Corporation (in substitution for Medbulk Maritime Management Corporation) and Sea Justice, S.A., G.R. No. 155338, 20 February 2007, citing Haverton Shipping Ltd., et al. v. NLRC, et al., 220 Phil. 356 (1985).

[13] Id.

[14] Cansino v. Prudential Shipping and Management Corporation (in substitution for Medbulk Maritime Management Corporation) and Sea Justice, S.A., supra.

[15] Rollo, p. 88. Petitioner's Memorandum.

[16] CA rollo, pp. 107-108.

[17] Rollo, p. 35.

[18] Asian Terminals, Inc. v. Marbella, G.R. No. 149074, 10 August 2006, 498 SCRA 389.

[19] Haverton Shipping Ltd., et al. v. NLRC, et al., supra note 12.

[20] Malaya Shipping Services, Inc. v. NLRC, 351 Phil. 421 (1998).

[21] G.R. No. 158693, 17 November 2004, 442 SCRA 573.

[22] Mercury Drug Corporation v. Serrano, G.R. No. 160509, 10 March 2006, 484 SCRA 434.

[23] Id.

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