BERNABE FALCO, JAIME RODRIGUEZ, ERVIN ABAD AND JOSEPH LARON, PETITIONERS, VS. MERCURY FREIGHT INTERNATIONAL, INC., AND/OR BAYANI COCHING, RESPONDENTS.

G.R. NO. 153824. August 09, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] of the Court of Appeals (Former Twelfth Division) dated March 25, 2002 in CA-G.R. SP No. 64374.

Mercury Freight International, Inc. (Mercury Freight), respondent, is a domestic corporation, with main office in San Dionisio, Parañaque City, engaged in sea freight forwarding. One of its biggest clients is California Manufacturing Company (California Manufacturing), a food products conglomerate with a manufacturing plant in Dasmariñas, Cavite. Respondent Mercury Freight transports imported soya beans oil from Manila South Harbor to the California Manufacturing plant using flexitanks.

Bayani Coching, the other respondent herein, is the President/General Manager of Mercury Freight.

Petitioners Jaime Rodriguez and Joseph Laron were employed by Mercury Freight as truck drivers, while Bernabe Falco and Ervin Abad were their respective truck helpers.

It appears that after the California Manufacturing personnel in Dasmariñas, Cavite drained the flexitanks of their soya beans oil contents, some residues were still left inside. Once the flexitanks were back to the Mercury Freight depot in San Dionisio, Parañaque City, the residues were removed and sold by respondents to third persons. As the proceeds from the sale of the residue were significant, petitioners were under strict instructions to drive straight back to the depot after their cargo had been unloaded in Dasmariñas, Cavite.

Sometime in December 1988, Mercury Freight noticed that the volume of the soya beans oil residue being retrieved from the flexitanks dropped significantly. It came to know that some of its drivers were selling the residue to unknown buyers. After delivering the soya beans oil to California Manufacturing, the flexitanks would divert to a certain location where petitioners would remove the residue. Then, they would return to the depot. Subsequently, Mercury Freight engaged the services of the K-9 Security and Investigation Agency (K-9 Security) to conduct surveillance and investigation operations.

On February 24-25, 1999, K-9 Security operatives conducted surveillance. Thereafter, it reported to Mercury Freight that after petitioners left the California Manufacturing plant in Cavite, they would bring their trucks to a dimly-lit place, with no sign board, near the FCIE compound along Governor's Drive in Dasmariñas, Cavite. Thereupon, groups of men would unload the cargo from the flexitanks.

After the K-9 Security submitted its report, Mercury Freight formed a Special Investigation Committee which conducted an informal hearing on March 4, 1999. When petitioners were confronted with the surveillance report,

they admitted dropping by the "unnamed, secluded, and dimly-lit compound." They insisted, however, that their only purpose was to take a long rest from the long drive. When they were told they had a three-hour lay-over at the California Manufacturing compound for rest and relaxation, while their flexitanks were being unloaded, they became unruly and hurled insults and invectives at the company personnel investigating them. This prompted Mercury Freight to suspend petitioners from March 5 to April 3, 1999.

On March 31, 1999, the Special Investigation Committee submitted its report finding petitioners liable for pilferage of company property and recommended their immediate dismissal from the service pursuant to the Company's Manual. Respondent Bayani Coching, president of Mercury Freight, approved the committee's recommendation. This prompted petitioners to file a complaint for illegal suspension/dismissal, underpayment and nonpayment of wages and 13th month pay with the Arbitration Branch of the National Labor Relations Commission (NLRC). They alleged in their Position Paper that they were suspended/dismissed without just cause and without due process; and that the company's failure to lift their suspension is tantamount to constructive dismissal.

For their part, both respondents alleged that petitioners are liable for pilferage of soya beans oil.

On February 29, 2000, the Labor Arbiter rendered his Decision dismissing the case on the ground that the petitioners were legally dismissed from employment. Respondents were ordered to pay petitioners their unpaid salaries for services rendered in the amount of P1,403.15 each.

On appeal, the NLRC affirmed the Labor Arbiter's judgment. Petitioners filed a motion for reconsideration, but it was denied by the NLRC.

Petitioners then seasonably filed with the Court of Appeals a petition for certiorari, docketed as CA-G.R. SP No. 64374. In its Decision dated March 25, 2002, the appellate court dismissed the petition, holding that the NLRC did not commit grave abuse of discretion by affirming the Labor Arbiter's ruling.

Petitioners filed a motion for reconsideration. In its Resolution dated June 4, 2002, the Court of Appeals denied the motion.

Hence, the instant petition for review on certiorari.

The sole issue for our resolution is whether the Court of Appeals erred in relying upon the factual findings of the Labor Arbiter and the NLRC in sustaining the dismissal of petitioners from employment.

As a rule, judicial review of labor cases does not go beyond the evaluation of the sufficiency of the evidence upon which the labor officials' findings rest.[2] Hence, where the factual findings of the Labor Arbiter and the NLRC conform and are confirmed by the Court of Appeals, the same are accorded respect and finality, and are binding upon this Court. It is only when the factual findings of the NLRC and the appellate court are in conflict that this Court will review the records to determine which finding should be upheld as being more in conformity with the evidentiary facts. Where the Court of Appeals affirms the findings of the labor agencies on review and there is no showing whatsoever that said findings are patently erroneous, this Court is bound by the said findings.[3]

Article 282 of the Labor Code is pertinent, thus:

> 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;
> (b) Gross and habitual neglect by the employee of his duties;
> (c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized

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representative;
(d) Commission of a crime or offense by the employee against the person of the employer or any immediate member of his family or his duly authorized representative;
(e) Other causes analogous to the foregoing.

Here, petitioners disobeyed respondents' lawful order, mentioned earlier, by committing acts of pilferage.

In Philippine Airlines, Inc. v. National Labor Relations Commission (4th Division),[4] we ruled that pilferage by an employee is a serious offense and a valid ground for dismissal. Petitioners' acts of pilferage having been duly established by substantial evidence, their dismissal from employment is in order.

In Manila Trading & Supply Co. v. Zulueta,[5] we ruled that an employer cannot legally be compelled to continue with the employment of a person who is guilty of misfeasance or malfeasance towards his employer and whose continuance in employment is patently inimical to the latter's interests. For the law, in protecting the rights of labor, authorizes neither the oppression nor the self-destruction of the employer.

WHEREFORE, we DENY the petition. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. SP No. 64374 are AFFIRMED IN TOTO. Costs against petitioners.

SO ORDERED.

Puno, (Chairperon), Corona, Azcuna and Garcia, JJ., concur.

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[1] Rollo, pp. 50-57. Per Associate Justice Wenceslao I. Agnir, Jr., and concurred in by Associate Justice B.A. Adefuin-De la Cruz (both retired) and Associate Justice Josefina Guevara-Salonga.

[2] CBL Transit, Inc. v. National Labor Relations Commission, G.R. No. 128425, March 11, 2004, 425 SCRA 367, 373.

[3] German Machineries Corp. v. Endaya, G.R. No. 156810, November 25, 2005, 444 SCRA 329, 340.

[4] G.R. No. 120507, September 26, 1997, 279 SCRA 553.

[5] 69 Phil. 485 (1940).

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