

EMELITA A. RAMIREZ, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND SUERTE STEEL CORPORATION, RESPONDENTS.

G.R. NO. 155150. August 29, 2006

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari assailing the Decision of the Court of Appeals dated March 4, 2002 in CA-G.R. No. 60240, entitled "Emelita A. Ramirez, petitioner, versus National Labor Relations Commission and Suerte Steel Corporation, respondents."

The facts are:

Emelita A. Ramirez, petitioner, was employed as a sales clerk by the Suerte Steel Corporation, respondent, on August 30, 1990.

On July 16, 1997, petitioner received a letter from respondent's personnel manager requiring her to explain in writing why no administrative action shall be taken against her for accepting money from one of the company's customers. Two days after, or on July 18, she received a memorandum from respondent placing her under preventive suspension. On August 1, respondent conducted an investigation. On August 6, respondent terminated petitioner's employment for dishonesty on the ground that she profited from a transaction, a violation of respondent company's rules and regulations.

Forthwith, petitioner filed with the Office of the Labor Arbiter, National Capital Region, a complaint for illegal dismissal from employment against respondent.

For its part, respondent alleged in its answer that petitioner, without authority, sold metal scraps at P.20 per kilo to Lolita Santiago, a customer. Petitioner's conduct violated Company Policy No. V (par. 4) on dishonesty which warrants her dismissal from the service.

On September 30, 1998, the Labor Arbiter rendered a Decision in favor of petitioner, ordering respondent to reinstate her to her former position without loss of seniority rights and to pay her backwages in the sum of P113,645.00.

On appeal, the National Labor Relations Commission, in its Decision of November 5, 1999, reversed the Labor Arbiter's judgment and declared that the dismissal of petitioner from employment is in accordance with law. Petitioner filed a motion for reconsideration, but it was denied in a Resolution dated January 25, 2000.

Petitioner then filed with the Court of Appeals a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended. In a Decision dated March 4, 2002, the appellate court dismissed the petition and denied petitioner's subsequent motion for reconsideration.

Hence, the instant petition.

The sole issue for our resolution is whether petitioner was illegally dismissed by respondent from employment.

In *Gustilo v. Wyeth Philippines, Inc.*,^[1] we reiterated the well-established rule that "findings of fact by the Court of Appeals are conclusive on the parties and are not reviewable by this Court x x x. The rationale behind this doctrine is that review of the findings of fact by the Court of Appeals is not a function that the Supreme Court normally undertakes."

The appellate court found that petitioner violated Company Policy No. V (par. 4) on dishonesty by profiting from the sale of metal scraps without the approval of Carmela C. Golozino, Operations-in-Charge of respondent company, thus:

Petitioner's tasks involve retail, selling, recording good steel tubes and those considered scrap, and handling money from the customer and depositing it to the company account. Notably, petitioner does not have the authority to sell scrap metal without the prior approval of the Operations-in-Charge, Carmela C. Golozino. But petitioner sold scrap metal on July 10, 1997 without such approval. And contrary to the claim of petitioner that said Operations-in-Charge, Carmelita C. Golozino, was not presented during the investigation, the transcript of stenographic notes show otherwise.

Article 282 of the Labor Code, as amended, 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;
- (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 representative;
- (d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and
- (e) Other causes analogous to the foregoing.

Considering the findings of the Court of Appeals, it is clear that petitioner committed serious misconduct or willful disobedience of the lawful order of herein respondent. Her conduct also constitutes willful breach of the trust reposed in her by respondent. Pursuant to the above-quoted provision, the termination of petitioner's employment is in order.

On petitioner's contention that she was deprived of due process, suffice it to state that there is nothing in the records to sustain the same.

WHEREFORE, we DENY the petition and AFFIRM the assailed

Decision of the Court of Appeals. No cost.

SO ORDERED.

Puno, (Chairperson), Azcuna and Garcia, JJ., concur. Corona, J., on leave.

[1] G.R. No. 149629, October 4, 2004, 440 SCRA 67, citing *Philippine Journalists, Inc. v. Mosqueda*, 428 SCRA 369 (2004), citing *Nokom v. NLRC*, 336 SCRA 97 (2000).

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