

DEOGRACIAS CANSINO, PETITIONER, V.S. PRUDENTIAL SHIPPING AND MANAGEMENT CORPORATION (IN SUBSTITUTION FOR MEDBULK MARITIME MANAGEMENT CORPORATION) AND SEA JUSTICE, S.A., RESPONDE...

G.R. NO. 155338. February 20, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] of the Court of Appeals dated March 21, 2002 in CA-G.R. SP No. 57111.

The facts of the case, as gleaned from the records, are:

On July 18, 1996, pursuant to a contract of employment,[2] Deogracias Cansino, petitioner, worked as a seaman in the Medbulk Maritime Management Corporation, a local manning agent of Sea Justice, S.A., a Greek shipping company. Under the contract, petitioner will serve on board the vessel M/V Commander for a term of twelve (12) months with a monthly basic salary of US\$470.00, fixed overtime pay of US\$141.00 for 120 hours, and vacation leave with pay of US\$63.00 per month, or a total monthly compensation of US\$674.00. The contract was then processed and approved by the Philippine Overseas Employment Administration (POEA).

While on board the M/V Commander, the ship's master, Captain Nikolaos Kandyliis, unilaterally altered the terms and conditions of the employment contract. Petitioner's position as seaman was changed to pumpman. Actually this was a promotion considering that his initial monthly pay of US\$674.00 was raised to US\$1,164.00.

Later, Captain Kandyliis received several derogatory reports against petitioner, such as drunkenness, insubordination, abandonment of post, and disorderly behavior. These were duly recorded in the ship's logbook.

On August 10, 1996, seven (7) members of the crew of M/V Commander (including petitioner) submitted a request to Captain Kandyliis for early repatriation because of family problems. Their requests were granted. After disembarking, they were furnished hotel accommodations and repatriation expenses. Petitioner then returned to the Philippines.

On November 18, 1996, petitioner filed with the Arbitration Branch, NLRC, National Capital Region a complaint for illegal dismissal and underpayment of wages against Medbulk Maritime Management Corporation[3] and Sea Justice, S.A.

On August 31, 1998, the Labor Arbiter dismissed petitioner's complaint, holding that his employment was validly terminated. He was found liable for drunkenness, a ground for dismissal from the service under his contract of employment.

On appeal, the NLRC, in its Decision, set aside the Labor Arbiter's judgment, thus:

ACCORDINGLY, premises considered, the August 31, 1998 decision of the Labor Arbiter is hereby set aside and new one entered ordering respondent Prudential Shipping to pay complainant the amount of US\$258.00 as underpayment of wages from September to November 1986 and US\$10,000.00 representing his salary from December 1996 to July 1997.

SO ORDERED.

Respondents filed a motion for reconsideration but it was denied.

Respondents then filed with the Court of Appeals a petition for certiorari under Rule 65 of the 1997 Rules of Civil Procedure, as amended.

On March 21, 2002, the Court of Appeals promulgated its Decision granting respondents' petition and setting aside the NLRC Decision.

Petitioner filed a motion for reconsideration. However, it was denied by the appellate court on September 5, 2002.

Hence, the instant petition raising the sole issue of whether the Court of Appeals erred in holding that petitioner's dismissal from employment was for cause.

Section 2, Rule VII, Book IV of the POEA Rules And Regulations Governing Overseas Employment provides:

SEC. 2. Grounds for Disciplinary Action. – Commission by the worker of any of the offenses enumerated below or of similar offenses while working overseas shall be subject to appropriate disciplinary actions as the Administration may deem necessary:

x x x

(c) Desertion or abandonment;

(d) Drunkenness, especially where the laws of the host country prohibit intoxicating drinks;

x x x

(g) Creating trouble at the worksite or in the vessel;

Appendix 2 of the POEA Standard Employment Contract for Filipino migrant workers contains a list of offenses with corresponding sanctions. This list includes drunkenness.

Petitioner contends that Captain Kandyliis has a grudge against him, the reason why he entered in the Master's Report that he (petitioner) was involved in a fight among several members of the crew.

There is nothing in the records of this case that supports petitioner's contention. On the contrary, the ship's log of the M/V Commander states that he was drunk four (4) times and was not in his post once.

The Master's Report[4] dated October 6, 1996 signed by Captain Kandyliis contains these entries: "the illegal consumption of alcoholic drinks by the Philippine crew put in danger the crew, the vessel, her cargo, the other nearby sailing vessels as well as environment from eventual destruction." One of the crew members named therein was petitioner. The Report shows that he was always drunk, disorderly and disobedient; and that the "Conformity for Sobriety" which every member of the crew was made to sign was violated every day.

In *Haverton Shipping Ltd v. National Labor Relations Commission*, [5] we described the ship's log as the official record of a ship's voyage which its captain is obligated by law to keep wherein, among others, he records the decisions he has adopted, a summary of the performance of the vessel, and other daily events. The entries made therein by a person performing a duty required by law are prima facie evidence of the facts stated therein. In

Abacast Shipping and Management Agency, Inc. v. National Labor Relations Commission,[6] we said that the logbook is “a respectable record that can be relied upon” when the entries therein are presented in evidence. In *Stolt-Nielsen Marine Services (Phils.), Inc. v. National Labor Relations Commission*, [7] citing *Haverton and Abacast*, we reiterated the evidentiary value of the ship’s log. Consequently, we find no reason why we should not give credence to Captain Kandyli’s Master’s Report.

In the earlier case of *Seahorse Maritime Corporation v. National Labor Relations Commission*, [8] which likewise involved a seaman who was prone to intoxication and creating trouble aboard ship when drunk, we held that serious misconduct in the form of drunkenness and disorderly and violent behavior, habitual neglect of duty, and insubordination or willful disobedience to the lawful orders of his superior officer, are just causes for dismissal of an employee under Article 282[9] of the Labor Code, and that where the dismissal is for cause, the erring seaman is neither entitled to separation pay or to the salaries for the unexpired portion of his contract.

We likewise cannot sustain petitioner’s claim that he was underpaid. In fact, Captain Kandyli increased his monthly compensation from US\$674.00 to US\$1,164.00 which he received. While the contract as altered was not approved by the POEA, however, the lack of such approval is inconsequential since the alteration redounded to petitioner’s benefit.

WHEREFORE, we DENY the petition and AFFIRM the assailed Decision of the Court of Appeals in CA-G.R. SP No. 57111.

Costs against petitioner.

SO ORDERED.

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

[1] Rollo, pp. 259-268. Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justices Delilah Vidallon-Magtolis and Candido V. Rivera (both retired).

[2] Annex “D-47” of the petition, Rollo, p. 107.

[3] Subsequently, Prudential Shipping and Management Corporation substituted Medbulk Maritime Management Corporation as respondent.

[4] Rollo, p. 108.

[5] G.R. No. 65442, April 15, 1985, 135 SCRA 685.

[6] G.R. Nos. 81124-26, June 23, 1988, 162 SCRA 541.

[7] G.R. No. 105396, November 19, 1996, 264 SCRA 307.

[8] G.R. No. 84712, May 15, 1989, 173 SCRA 390.

[9] ART. 282. Termination of employment. – 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 duly authorized representative; and
- (e) Other causes analogous to the foregoing.

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