CENTRAL PANGASINAN ELECTRIC COOPERATIVE, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND LITO CAGAMPAN, RESPONDENTS.

G.R. NO. 163561. July 24, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is a petition for review on certiorari assailing the Decision[1] dated December 11, 2003 of the Court of Appeals in CA-G.R. SP No. 62285 and its Resolution[2] dated April 19, 2004, denying the motion for reconsideration. The appellate court had affirmed the Decision[3] dated July 31, 2000 of the National Labor Relations Commission (NLRC), which sustained the decision[4] dated January 14, 2000 of the Labor Arbiter.

The facts are undisputed.

Private respondent Lito Cagampan was the Acting Power Use Coordinator of petitioner Central Pangasinan Electric Cooperative, Inc. (CENPELCO). On November 7, 1998, Cagampan received a check amounting to P100,831 from Aurora B. Bonifacio as partial payment for the installation of a transformer in her building and expansion of a three-phase line.

In a letter[5] dated November 14, 1998, Bonifacio informed CENPELCO's General Manager Salvador de Guzman of the said transaction and that Cagampan did not issue a receipt for the partial payment made. She also requested the immediate installation of the transformer. Thereafter, Cagampan was directed to explain in writing why he should not be disciplined or dismissed for the unauthorized acceptance of payments for new electrical connections.

Upon investigation, it appeared that Cagampan knowingly entered into an unauthorized contract for the installation of a transformer, and that he was not authorized to accept payment. Hence, Cagampan was found guilty of violating CENPELCO's Code of Ethics and Discipline, namely: (1) unauthorized acceptance of payments for new connection; (2) dishonest or unauthorized activity whether for personal gain or not; and (3) defrauding others by using the name of the company. He was dismissed from service.[6]

Cagampan filed a complaint for illegal dismissal, praying for payment of backwages and damages, and reinstatement. In a decision dated January 14, 2000, the Labor Arbiter found that Cagampan used his position as a CENPELCO employee to enter into a contract with Bonifacio for the purchase of materials and hiring of labor force necessary for the installation of a transformer, in violation of company rules.[7] The Labor Arbiter dismissed the complaint for lack of merit but ordered CENPELCO to pay Cagampan separation pay, thus,

> WHEREFORE, PREMISES CONSIDERED, the instant complaint is hereby DISMISSED for lack of merit. The respondent corporation is, however, ordered to pay the complainant P99,345.00 (P9,934.50 ÷ 2 = P4,967.25 x 20) by way of separation pay.
>
> SO ORDERED.[8]

Both parties appealed to the NLRC. In a decision dated July 31, 2000, the NLRC affirmed the Labor Arbiter's decision. Private respondent's motion for reconsideration was denied. CENPELCO sought reconsideration of the award of separation pay but was also denied. Hence, petitioner filed a petition for certiorari with the Court of Appeals on the ground that the NLRC committed grave abuse of discretion amounting to lack or in excess of jurisdiction by affirming the award of separation pay to private respondent. The appellate court dismissed the petition for lack of merit. Petitioner moved for reconsideration but was denied.

Hence, this petition where petitioner raises the lone issue of —

> WHETHER THE HONORABLE COURT OF APPEALS' DECISION UPHOLDING THE AWARD OF SEPARATION PAY TO PRIVATE RESPONDENT CAGAMPAN WHO WAS LEGALLY DISMISSED FOR GROSS MISCONDUCT AND ACTS OF DISHONESTY IS CONTRARY TO THE EXISTING JURISPRUDENCE.[9]

Simply stated, at issue in this case is the propriety of the award of separation pay to private respondent.

Petitioner maintains that private respondent is not entitled to separation pay since he was dismissed for gross misconduct and acts of dishonesty. It contends that separation pay or financial assistance is not awarded to employees lawfully dismissed for serious misconduct or for cause reflecting on his moral character.[10]

Private respondent for his part claims that payment of separation pay for humanitarian reasons is proper considering that he had served petitioner for almost twenty-one years prior to his termination.[11]

The Court of Appeals in affirming the NLRC decision held that the NLRC did not gravely abuse its discretion in awarding the benefits of compassionate justice. It ratiocinated that considering his long years of service, it did not necessarily follow that no award of separation pay could be made if there was no illegal dismissal.[12]

We find for petitioner. Separation pay should not be awarded.

Section 7, Rule I, Book VI of the Omnibus Rules Implementing the Labor Code provides that when the employee is dismissed for any of the just causes under Article 282[13] of the Labor Code, he shall not be entitled to termination pay without prejudice to applicable collective bargaining agreement or voluntary employer policy or practice.[14] Separation pay shall be allowed only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character.[15] Separation pay in such case is granted to stand as a "measure of social justice."[16] If the cause for the termination of employment cannot be considered as one of mere inefficiency or incompetence but an act that constitutes an utter disregard for the interest of the employer or a palpable breach of trust in him, the grant by the Court of separation benefits is hardly justifiable.[17]

In this case, private respondent was found by the Labor Arbiter and the NLRC to have been validly dismissed for violations of company rules, and certain acts tantamount to serious misconduct. Such findings, if supported by substantial evidence, are accorded respect and even finality by this Court.[18]

Although long years of service might generally be considered for the award of separation benefits or some form of financial assistance to mitigate the effects of termination, this case is not the appropriate instance for generosity under the Labor Code nor under our prior decisions. The fact that private respondent served petitioner for more than twenty years with no negative record prior to his dismissal, in our view of this case, does not call for such award of benefits, since his violation reflects a regrettable lack of loyalty and worse, betrayal of the company. If an employee's length of service is to be regarded as a justification for moderating the penalty of dismissal, such gesture will actually become a prize for disloyalty, distorting the meaning of social justice and undermining the efforts of labor to cleanse its ranks of undesirables.[19]

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WHEREFORE, the petition is GRANTED. The Decision dated December 11, 2003 of the Court of Appeals in CA-G.R. SP No. 62285 and its Resolution dated April 19, 2004, denying the motion for reconsideration, are hereby REVERSED and SET ASIDE.
SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

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[1] Rollo, pp. 30-35. Penned by Associate Justice B.A. Adefuin-Dela Cruz, with Associate Justices Eliezer R. De Los Santos and Jose C. Mendoza concurring.

[2] Id. at 36.

[3] Id. at 47-54.

[4] Id. at 125-131.

[5] Id. at 63.

[6] Id. at 71-73.

[7] Id. at 129-130.

[8] Id. at 131.

[9] Id. at 194.

[10] Id. at 194-195.

[11] Id. at 210-211.

[12] Id. at 34.

[13] 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.

[14] Section 7. Termination of employment by employer. —The just causes for terminating the services of an employee shall be those provided in Article 282 of the Code. The separation from work of an employee for a just cause does not entitle him to the termination pay provided in the Code, without prejudice, however, to whatever rights, benefits and privileges he may have under the applicable individual or collective bargaining agreement with the employer or voluntary employer policy or practice.

[15] Etcuban, Jr. v. Sulpicio Lines, Inc., G.R. No. 148410, January 17, 2005, 448 SCRA 516, 533-534, citing Phil. Long Distance Telephone Co. v. NLRC, No. L-80609, August 23, 1988, 164 SCRA 671, 682.

[16] San Miguel Corporation v. Lao, G.R. Nos. 143136-37, July 11, 2002, 384 SCRA 504, 510.

[17] Id. at 512.

[18] Tres Reyes v. Maxim's Tea House, G.R. No. 140853, February 27, 2003, 398 SCRA 288, 298.

[19] Etcuban, Jr. v. Sulpicio Lines, Inc., supra at 532, citing Flores v. National Labor Relations Commission, G.R. No. 96969, March 2, 1993, 219 SCRA 350, 355.

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