

MAJURINE L. MAURICIO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, THE MANILA BANKING CORPORATION, LUIS B. PUYAT, BENJAMIN YAMBAO AND CLARENCE D. GUERRERO, RESPONDENTS.

G.R. No. 164635. November 17, 2005

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Petitioner, Majurine L. Mauricio, started working as an Administrative Assistant in the Legal Department of the Manila Banking Corporation (the bank) on July 1, 1999 as a probationary employee.

As a pre-employment requirement, the bank directed the submission by petitioner of, among other things, a 1x1 ID picture, 2 x 2 ID picture, two reference letters, and clearance from the employee's previous employment.

Petitioner failed to submit the required documents, however. The bank thus gave her up to December 15, 1999 to comply, and advised her that the processing of her regularization as employee would be held in abeyance.[1]

Despite the deadline given her, petitioner still failed to comply with the requirements, drawing the bank to send her a Memorandum[2] dated December 27, 1999 signed by its Vice-President for Personnel Department Clarence D. Guerrero (Guerrero), giving her until December 29, 1999 to submit the requirements, and informing that her failure to do so would cause the termination of her employment effective December 29, 1999.

Petitioner, by letter of December 28, 1999, informed the bank that she could not secure a clearance from her previous employer, the Manila Bankers Life Insurance Corporation (MBLIC),[3] a sister company of the bank, as she had a pending case with it. She thus requested that any action relative to her employment be held in abeyance as she was still following up the early resolution of the case.

By reply memorandum of even date, the bank denied petitioner's request:

Please be advised that your request could not be acted upon favorably for the reason that the submission of the pre-employment requirements, one of which is a clearance from the previous employer if one is previously employed, is a standing policy of Manilabank applicable especially to bank officers. To allow an exemption to the rule that the same should be submitted prior to the expiration of your 6-month probationary employment will create a precedent which will prejudice an established hiring policy, not to mention the legal implication of waiver on the part of the bank to further require submission of the clearance after the lapse of your probationary employment. However, in the event that you will secure the required clearance form (sic) Manila Bankers Life, we will be happy to consider your future employment with Manilabank.

In view, therefore, our memo dated 27 December 1999 stands. [4]

Petitioner thus filed on January 21, 2000 a complaint[5] for illegal dismissal, unpaid salary, and moral and exemplary damages against the bank and Guerrero.

Upon the following issues:

- Whether or not complainant's probationary employment was validly terminated by respondent Manila Banking Corporation or MBC for brevity.
- Whether or not complainant was unpaid for fifteen days from December 16-30, 1999; and
- Whether or not complainant is entitled to moral and exemplary damages.,[6]

the Labor Arbiter, by Decision[7] dated September 12, 2000, dismissed the complaint in this wise:

Anent the first issue, the submission of clearance from a previous employer is a reasonable requirement to qualify as a regular employee upon the expiration of the six months probationary employment. This reasonable regulation is mandatory in the sense that it speaks of the employee's character before he or she becomes a regular employee. For sure, no employer in his right mind would engage the regular service of an employee unless he is certain of the moral character of a probationary employee applying as regular employee. To say that the requirement is a mere formality is an oversimplification of the long standing policy in the bank industry that bank officers must be honest and beyond reproach.

In the case of *San Miguel Brewery Sales Force Union vs. Ople* 170 SCRA 25, the Honorable Supreme Court spoke in no uncertain terms that:

Except as limited by special laws, an employer is free to regulate according to his own discretion and judgment, all aspects of employment, including hiring. x x x

The pre-employment requirements of respondent MBC which was made known to complainant upon the inception of her employment were not shown to be unreasonable so as to render ineffectual complainant's denial as regular employee.

In fact, complainant was given a six month period to produce the clearance requirement and as early as November 26, 1999, complainant was directed to submit the documents required for regularization but she dilly-dallied. It was only on December 28, 1999 or a day before the deadline that complainant wrote her previous employer about the issuance of the clearance requirement but considering that complainant has a pending questionably petty cash liquidation problem upon audit, the clearance cannot be issued before the expiration of the six months probationary period.

The fact that complainant's previous employer cannot issue a clearance because of pending questionable transaction in which complainant is involved, it is within the province of respondents to deny the regularization of complainant.

To allude or imply that respondent Guerrero was in cahoots with complainant's previous employer would be delving in speculations and conjectures.

With respect to the second issue, it was satisfactorily explained by respondents that the one-half month salary withheld was applied to complainant's tax deficiency.

Considering that the dismissal of complainant was lawful, the prayer for moral and exemplary damages must perforce fail.[8]

On petitioner's appeal, the National Labor Relations Commission (NLRC), by Decision[9] dated September 24, 2001, reversed the decision of the Labor Arbiter, disposing as follows:

WHEREFORE, the decision of Labor Arbiter Cadiente Santos is hereby REVERSED IN TOTO AND SET ASIDE. Judgment herein is rendered in favor of the complainant-appellant as follows:

a)

Reinstating the complainant-appellant to her former position with all entitlements and without loss of seniority rights. Should reinstatement be impossible, separation pay equivalent to one month's salary or one-half month salary for every year of service whichever is higher should be awarded in favor of complainant.

b)

Granting her backwages from December 15, 1999 to date of her actual reinstatement.

c)

P50,000.00 moral and exemplary damages; and

d)

Attorney's fees of 10% of the amount awarded.[10]

On respondents' Motion for Reconsideration,[11] however, the NLRC, by Decision[12] of May 6, 2003, vacated its original Decision and reinstated in toto the September 12, 2000 Decision of the Labor Arbiter.

Petitioner thereupon challenged via Certiorari under Rule 65 before the Court of Appeals (CA) the NLRC Decision, raising five grounds,[13] albeit the primordial issue was, as pointed out by the CA, whether the NLRC committed grave abuse of discretion in reversing its original Decision.

The CA, holding in the negative, held that in terminating petitioner's probationary employment due to her failure to submit a certificate of clearance from her previous employer, the bank was merely exercising its management prerogative.

Petitioner's motion for reconsideration having been denied by the CA by Resolution[14] dated July 14, 2004, she comes before this Court via Petition for Review praying for the reinstatement of the NLRC September 24, 2001 original Decision, she submitting that the CA erred in upholding the NLRC in reconsidering its earlier findings that –

- PETITIONER WAS NOT A PROBATIONARY EMPLOYEE.
- THERE WAS NO SUFFICIENT LEGAL BASIS TO TERMINATE PETITIONER.
- PRIVATE RESPONDENTS WERE GUILTY OF BAD FAITH IN TERMINATING PETITIONER.
- PRIVATE RESPONDENTS DISCRIMINATED AGAINST PETITIONER.

x x x[15]

Petitioner contends that factual findings of administrative agencies are not infallible and should be set aside when they fail the test of arbitrariness or upon proof of grave abuse of discretion, fraud or error of law or, as in the instant case, "when the findings of the reviewing administrative tribunal are themselves conflicting as in this case where the NLRC took a radical and highly questionable 180-degree turn by reversing itself on the basis of a motion for reconsideration whose issues and arguments had already been passed upon in the judgment reconsidered." [16]

While the essence of a motion for reconsideration is a second review of the facts, petitioner continues, the second review by the NLRC was unwarranted considering that private respondents raised the very same arguments which it had already passed upon in its original September 24, 2001 Decision. Thus, concludes petitioner, there are no new and compelling reasons to justify the complete turn-around of the NLRC.

This Court is not persuaded.

There is nothing "radical and highly questionable" with the NLRC reversing its original decision if supported with substantial evidence. Thus, in *Vitarich Corporation v. National Labor Relations Commission*[17] this Court, in ruling out grave abuse of discretion on the part of the NLRC when it reversed its original decision, held:

x x x A careful scrutiny of the records reveals that the decision of the Labor Arbiter is suffused with the established facts and a correct understanding of them. Consequently, it is but proper for NLRC to abandon its former stance and adopt, and correctly so, the findings of the Labor Arbiter. x x x[18] (Underscoring supplied).

Respecting petitioner's contention that in its earlier Decision, the NLRC already passed upon the arguments raised by respondents in their Motion for Reconsideration before it, petitioner herself provides the answer when she quotes in her present petition what she terms as "the trenchant observation of the High Court" in a case no citation of which she furnished, thus:

In the first place, the purpose of a motion for reconsideration is to point out the findings and conclusions of the decision which in the movant's view, are not supported by law or the evidence. The movant is, therefore, very often confined to the amplification or further discussion of the same issues already passed upon by the court. Otherwise, his remedy would not be a reconsideration of the decision but a new trial or some other remedy. In the case of *Viña v. Court of Appeals*, we emphasized the nature of a motion for reconsideration. We held: Contrary to petitioner's contention, REPUBLIC'S Motion For Reconsideration dated January 10, 1973 was not pro forma, even if we are to concede that it was a reiteration of its previous Motion for suspension of proceedings.

x x x Among the ends to which a motion for reconsideration is addressed, one is precisely to convince the court that its ruling is erroneous and improper and contrary to the law or evidence; and in so doing, the movant has to dwell of necessity upon the issues passed upon by the court. If a motion for reconsideration may not discuss these issues, the consequence would be that after a decision is rendered, the losing party would be confined to filing only motions for reopening and new trial. We find in the Rules of Court no warrant for ruling to that effect x x x.[19] (Italics and emphasis supplied by petitioner).

At all events, the present petition raises questions of facts, not of law, hence, not reviewable under Rule 45 unless the factual findings being assailed are not supported by evidence on record or the impugned judgment is based on misapprehension of facts.[20]

In her petition, while petitioner quotes at length the September 24, 2001 original decision of the NLRC, she fails to explain why the NLRC should not have reversed it and why the Court of Appeals should not have sustained the reversal. And what error of law should be reviewed by this Court, petitioner likewise fails to point out.

One of the inherent powers of courts which should apply in equal force to quasi-judicial bodies is to amend and control its processes so as to make them conformable to law and justice. This includes the right to reverse itself, especially when in its opinion it has committed an error or mistake in judgment and adherence to its decision would cause injustice.[21] This, the NLRC exercised which bore the imprimatur of the CA. Petitioner has, however, failed to advance any meritorious ground why this Court should disturb such exercise.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Panganiban, (Chairman), Corona, and Garcia, JJ., concur.
Sandoval-Gutierrez, J., on leave.

[1] NLRC Records at 46.

[2] Id. at 17.

[3] Id. at 18.

[4] Id. at 20.

[5] Id. at 2-3.

[6] Id. at 142.

[7] Rollo at 95-103.

[8] NLRC Records at 142-143.

[9] Rollo at 104-109.

[10] Id. at 108-109.

[11] NLRC Records at 236-262.

[12] Id. at 276-285.

[13] Rollo at 25-26.

[14] Id. at 30.

[15] Id. at 7.

[16] Id. at 8-9.

[17] 307 SCRA 509 (1999).

[18] Id. at 517.

[19] Petitioner's Reply, Rollo at 169.

[20] In the cases of Local Superior of the Servants of Charity (Guanellians), Inc. and Fr. Luigi De Giambattista v. Jody King Construction & Development Corporation, G.R. No. 141715, October 12, 2005, Agas v. Sabico, 457 SCRA263 (2005) and Madrigal v. Court of Appeals, 456 SCRA 247 (2005), the Court enumerated the instances when the factual findings of the Court of Appeals may be reviewed, to wit: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgments is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.

[21] Toca v. Court of Appeals, 365 SCRA 463-464 (2001); Astraquillo v. Javier, 13 SCRA 125 (1965).

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