

ROBERT C. CASOL AND NAGSAMA-PUREFOODS-PULO, PETITIONERS, VS. PUREFOODS CORPORATION, RESPONDENT.

G.R. NO. 166550. September 22, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review seeks to annul and set aside the May 19, 2004 decision[1] of the Court of Appeals[2] in CA-G.R. SP No. 75804 which affirmed

the August 29, 2002 decision[3] of the National Labor Relations Commission (NLRC) dismissing petitioners' complaint for illegal dismissal, and its January 6, 2005 resolution[4] denying reconsideration thereof.

Robert C. Casol was a deliveryman of respondent Purefoods Corporation. After completing the deliveries on August 29, 1992, Casol allegedly informed Nestor Polendey who was the designated driver of the van to leave the vehicle behind as he would use it to load LPG for house use. Polendey thus left the vehicle with Casol while he proceeded back to the plant to punch out.

At around 2:00 a.m. of the following day, Casol reported to the motorpool of respondent company that the van broke down and had to be towed. Upon inspection, it was discovered that the van had a damaged crankcase and a cracked oil pan for which respondent company spent P26,946.42 for the repair.[5]

Casol and Polendey were required to submit their written explanation on the incident. However, only Polendey complied,[6] alleging that Casol asked him to get off the vehicle and leave the van with him.

After the investigation, Casol was found guilty of violating Section 15, Article VI of respondent company's Amended Rules and Regulations,[7] particularly for unauthorized use of vehicle resulting to damages exceeding P25,000.00. His employment was terminated effective November 9, 1992.[8]

Casol and his union, NAGSAMA-PUREFOODS-PULO, filed a complaint for illegal dismissal disclaiming the former's liability for the damage, and alleging that even assuming that he was, the cost did not exceed P25,000.00 in which case the imposable penalty under the company rules should only be suspension for six (6) days.

On August 18, 1999, the labor arbiter found that the respondent company failed to establish that Casol was responsible for the damage to the vehicle hence his dismissal was declared illegal. The dispositive portion of the decision reads:

WHEREFORE, premises all considered, judgment is hereby rendered finding the dismissal illegal and ordering respondent Purefoods Corporation to pay complainant his backwages (November 9, 1992 to December 31, 1998) or in the total amount of P417,600.00 and separation pay of P34,800.00 (P5,800.00 x 6 mos. 1986 to 1992 = P34,800.00).

Furthermore, respondent Manolo P. Tingzon should be dropped as party-respondent for lack of legal basis.

SO ORDERED.[9]

On appeal, the NLRC reversed and set aside the arbiter's decision. It found Casol's use of the vehicle as unauthorized and the damage caused exceeded P25,000.00; thus, respondent company was justified in dismissing him based on loss of trust and confidence. The NLRC also dismissed the complaint for lack of merit.[10]

On certiorari, the Court of Appeals affirmed the findings of the NLRC that Casol's dismissal was justified and that the amount of damage exceeded P25,000.00. Petitioners' motion for reconsideration was denied.[11] Hence, this petition which raises a sole assignment of error, thus:

THE COURT OF APPEALS HAS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO EXCESS OR LACK OF JURISDICTION IN AFFIRMING THE DECISION OF THE NLRC BECAUSE ITS FINDINGS AND CONCLUSION ARE IN CONFLICT WITH THE EVIDENCE ON RECORD, WHICH, IF NOT CORRECTED, WILL RESULT TO AN IRREPARABLE INJURY AND DEPRIVATION OF PETITIONER'S CONSTITUTIONAL RIGHT TO SECURITY OF TENURE.[12]

We agree with the findings of the NLRC and the Court of Appeals that Casol used the vehicle without authority and should be made liable therefor. Indeed, Polendey's explanation that he followed the orders of Casol to turnover the vehicle to the latter, is plausible considering that he was newly hired and was under the impression that Casol was "much authorized than [him] to drive the panel".[13] Casol's narration that he merely chanced upon the vehicle parked along a roadside near his house and that he reported the same to the motorpool of respondent company, was not only incredible but remained unsubstantiated and inconsistent with his other testimony.

However, the crux of the dispute lies in the actual amount spent to repair the vehicle considering that per respondent company's rulebook, the penalty for Casol's offense could either be suspension for six (6) days or outright dismissal, depending on whether the actual cost of the damage exceeds P25,000.00.

The general rule is that the Court's jurisdiction under Rule 45 of the Revised Rules of Civil Procedure is limited to the review of errors of law committed by the appellate court. Nonetheless, while this Court is not a trier of facts, it may review the evidence on record to arrive at the correct factual conclusion,[14] especially when the judgment of the Court of Appeals is based on a misapprehension of facts, or when the inference drawn from the facts is manifestly mistaken,[15] as in the case at bar.

Respondent company's Amended Rules and Regulations provides that the penalty for the unauthorized use of vehicles, if the amount of damage exceeds P10,000.00 but not more than P25,000.00, is suspension for six (6) working days, for the 1st offense, suspension of fifteen (15) working days, for the 2nd offense, and dismissal, for the 3rd offense. If the amount of damage exceeds P25,000.00, the penalty is outright dismissal.[16]

Attached to the affidavit[17] of Efren Espina, an automotive mechanic and supervisor at respondent company's motorpool, is a listing of the essential and non-essential expenses incurred to repair the vehicle[18] based on the itemized receipt[19] issued by Chandler Phils. Inc. (Chandler) which repaired the van. The list is reproduced below:

COMPUTATION OF EXPENSES ASSUMING ARGUENDO
CERTAIN PARTS ARE NON-ESSENTIAL TO REPAIR THE DAMAGE

Essential/indispensable parts to repair the damage on van PKD 237:

1. Crankshaft assembly

--

P 14,500.00

2. Camshaft assembly

--

4,950.00

3. Main bearing

--

430.00

4. Con rod bearing

--

250.00

5. Piston ring

--

700.00

6. Oil filter

--

75.00

7. Overhauling gasket

--

900.00

8. Silicon gasket

--

85.00

9. Motor oil (5 liters)

--

257.50

10. Gasoline (25 liters)

--

275.00

11. Labor-machine shop

--

522.20

12. Overhaul engine

--

1,800.00

P 24,744.70

Plus 10% Tax

2,474.47

TOTAL

P 27,219.17

Non-essential parts, but required in the repair to put van PKD 237 in A-1 optimum running condition:

1. Tensioner adjuster

--

P 450.00

2. Spark plugs (4 pcs.)

--

104.00

3. Contact point

--

75.00

4. Condenser

--

45.00

5. Fuel filter

--

35.00

6. Clutch disc

--

675.00

7. Pilot bearing

--

65.00

8. Air con belt

--

145.00

9. Overhaul radiator tank

--

450.00

P 2,044.00

Plus 10% Tax

204.40

TOTAL

P 2,248.40

It is fair that only those expenses which are essential or indispensable to repair the damage and directly related to the infraction committed by Casol shall be considered. Thus, non-essential expenses or those which are required only to put the vehicle in optimum condition and resulting from the normal wear and tear must be excluded from the computation. As indicated above, the total expenses essential and indispensable to repair the damage amounted to P27,219.17.

At first glance, nothing seems amiss in the computation but a closer evaluation reveals that respondent company erroneously applied the 10% VAT on the aggregate cost of labor and essential spare parts. It is well to note that in the itemized official receipt issued by Chandler, the 10% VAT was applied only to the cost of labor. This implies, therefore, that the VAT component was deemed included in the unit price of the spare parts. Thus, it was error for respondent company to impose anew the VAT thereon; it should have limited its application on the cost of labor

only. Thus, the proper computation of the cost of essential parts and labor should be:

Essential/indispensable parts to repair the damage on van PKD 237:

1. Crankshaft assembly

--

P 14,500.00

2. Camshaft assembly

--

4,950.00

3. Main bearing

--

430.00

4. Con rod bearing

--

250.00

5. Piston ring

--

700.00

6. Oil filter

--

75.00

7. Overhauling gasket

--

900.00

8. Silicon gasket

--

85.00

9. Motor oil (5 liters)

--

257.50

10. Gasoline (25 liters)

--

275.00

Sub-total on spare parts

P 22,422.50

Add: Labor

11. Labor-machine shop

--

522.20

12. Overhaul engine

--

1,800.00

VAT on labor [(522.20 + 1800)10%]

232.22

TOTAL

P 24,976.92

Plainly, the cost of the damage directly related to or caused by the petitioner's infraction did not exceed the P25,000.00 limit. Thus, the appropriate penalty was only suspension for six (6) days, it appearing that it was Casol's first offense, and not outright dismissal. We carefully reviewed the records of the case and we find no evidence and neither did respondent company claim that it paid any amount other than those indicated in the receipts.

Time and again we have said that in illegal dismissal cases, the employer is burdened to prove just cause for terminating the employment of its employee with clear and convincing evidence.[20] The weakness of the employee's defense should not operate to relieve nor discharge the employer of its burden to prove its charges pursuant to the guaranty of tenure granted by the Constitution to employees under the Labor Code.[21] The case of the employer must stand or fall on its own merits.

Having been illegally dismissed, Casol is entitled to reinstatement and full back wages, inclusive of allowances, and other benefits, computed from the time his compensation was withheld up to his actual reinstatement.[22] However, on July 2, 1997, the Processed Meats Division of respondent company to which Casol belonged was closed with due notice to the Department of Labor and Employment.[23] All positions were declared redundant and the employees were separated from the service, thereby making reinstatement no longer feasible. In view thereof, separation pay equivalent to one (1) month pay or to at least one-half (1/2) month pay for every year of service, whichever is higher,[24] should be given to Casol, reckoned from the date he was hired until the actual closure of the Processed Meats Division on July 2, 1997.

As Casol could no longer serve the 6-day suspension, its monetary equivalent based on the daily wage of Casol on August 29, 1992, should be deducted from the total amount due him. Likewise, as a measure of equity, we hold that the amount of P24,976.92 spent by respondent company to repair the damage resulting from petitioner's unauthorized use of the company van should be further deducted from whatever monetary benefits he shall receive.

WHEREFORE, the petition is GRANTED. The May 19, 2004 decision of the Court of Appeals and its January 6, 2005 resolution in CA-G.R. SP No. 75804, are REVERSED and SET ASIDE. The dismissal of Robert C. Casol is hereby DECLARED ILLEGAL. Respondent Purefoods Corporation is ORDERED to PAY Casol separation pay equivalent to one (1) month pay or to at least one-half (1/2) month pay for every year of service, whichever is higher, the period of service reckoned from the time Casol was hired until July 2, 1997. From the separation pay, the following should be DEDUCTED:

1)

The monetary equivalent of the 6-day suspension based on the actual daily wage received by petitioner on August 29, 1992; and

2)

The total cost spent by respondent Purefoods Corporation to repair the damage to the company vehicle directly related to petitioner's infraction in the amount of P24,976.92.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 29-36.

[2] Penned by Associate Justice Jose L. Sabio, Jr. as concurred in by Associate Justices Hakim S. Abdulwahid and Eugenio S. Labitoria.

[3] Rollo, pp. 42-53.

[4] Id. at 38-40.

[5] Id. at 139.

[6] Id. at 173.

[7] Id. at 162-164.

[8] Id. at 165.

[9] Id. at 65-66. Penned by Labor Arbiter Ramon Valentin C. Reyes.

[10] Penned by Commissioner Angelita A. Gacutan as concurred in by Commissioners Raul T. Aquino and Victoriano R. Calaycay.

[11] Rollo, pp. 38-40.

[12] Id. at 20.

[13] Id. at 173.

[14] Carpio v. Valmonte, G.R. No. 151866, 9 September 2004, 438 SCRA 38, 43.

[15] Pastor v. Philippine National Bank, G.R. No. 141316, 20 November 2003, 416 SCRA 283, 295.

[16] Rollo, p. 163.

[17] Id. at 137.

[18] Id. at 138.

[19] Id. at 139.

[20] Sy v. Court of Appeals, G.R. No. 142293, 27 February 2003, 398 SCRA 301, 310.

[21] Litton Mills, Inc. v. Sales, G.R. No. 151400, 1 September 2004, 437 SCRA 488, 500.

[22] Article 279 of the Labor Code.

[23] Rollo, p. 81.

[24] Article 283 of the Labor Code.

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