

## AILEEN G. HERIDA, PETITIONER VS. F & C PAWNSHOP AND JEWELRY STORE/MARCELINO FLORETE, JR., RESPONDENTS.

*G.R. No. 172601. April 16, 2009*

Ponente: QUISUMBING, J.

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### QUISUMBING, J.:

Petitioner seeks the reversal of the Decision[1] dated September 16, 2005 and the Resolution[2] dated April 21, 2006 of the Court of Appeals in CA-G.R. SP No. 82553 which affirmed the Resolution[3] dated October 23, 2003 of the National Labor Relations Commission (NLRC) in NLRC Case No. V-000177-2000.

The antecedent facts of the case are as follows:

Petitioner Aileen G. Herida was an employee of respondent F & C Pawnshop and Jewelry Store owned by respondent Marcelino Florete, Jr. She was hired as a sales clerk and eventually promoted as an appraiser in the Bacolod City Branch.

On August 1, 1998, management issued an office memorandum[4] directing petitioner to report to the Guanco Branch in Iloilo City. As petitioner refused to follow the directive, she was preventively suspended from work on August 10, 1998 for a period of 15 days effective August 7, 1998. She was also directed to report to her new assignment on August 24, 1998.[5]

On August 10, 1998, petitioner filed a complaint[6] for illegal dismissal, underpayment of wages, non-payment of separation pay, 13<sup>th</sup> month pay, as well as for payment of moral and exemplary damages and attorney's fees.

On August 26, 1998, management informed petitioner that it will conduct an investigation on September 7, 1998[7] which petitioner failed to attend. In a letter dated September 7, 1998, management terminated her services on the grounds of willful disobedience, insubordination and abandonment of work as well as gross violation of company policy.[8]

In a Decision[9] dated July 19, 1999 in RAB Case No. 06-08-10525-98, the Labor Arbiter dismissed petitioner's complaint for lack of merit. The Labor Arbiter ruled that petitioner was not dismissed from her job and that she deliberately refused to obey management's directive for her to report to the Iloilo City Branch. The Labor Arbiter noted that petitioner filed the complaint as a retaliatory act to secure an award of separation pay.

On September 20, 2001, the NLRC affirmed the Labor Arbiter's finding that there was no illegal dismissal. However, due to petitioner's long service with respondents, the NLRC awarded her separation pay as well as service incentive leave pay. The decretal portion of the decision reads:

WHEREFORE, the assailed decision is SET ASIDE and a new one ENTERED declaring that there was no illegal dismissal. Conformably with the preceding discussion however, complainant is entitled to separation pay computed on the basis of her one-half month salary per year of service for nine (9) years, or the amount of SEVENTEEN THOUSAND ONE HUNDRED PESOS (P17,100.00).

Complainant is likewise entitled to service incentive leave pay for a total of fifteen (15) days, or the amount of TWO THOUSAND ONE HUNDRED NINETY PESOS (P2,190.00).

No pronouncements as to damages and attorney's fees.

SO ORDERED.[10]

Both petitioner and respondents moved for reconsideration. On October 23, 2003, the NLRC issued a resolution partially reconsidering its decision, in this wise:

WHEREFORE, we reconsider Our Decision of September 20, 2001 by declaring that there was no illegal dismissal; affirming Our award for separation pay, and deleting Our award for service incentive leave pay.

SO ORDERED.[11]

Aggrieved, petitioner filed a petition for certiorari with the Court of Appeals. In dismissing the petition, the appellate court upheld management's prerogative to transfer an employee from one office to another within the business establishment provided there is no demotion in rank or diminution in salary, benefits and other privileges. It ruled that as long as management's exercise of such prerogative is in good faith to advance its interest and not for the purpose of defeating or circumventing the rights of the employee under the laws or valid agreements, such exercise will be upheld. The appellate court noted that there was no proof that respondents were motivated by bad faith in transferring petitioner. Petitioner never alleged anything that would defeat her rights as an employee by reason of the transfer. Hence, her transfer cannot be deemed a constructive dismissal since it is not unreasonable, discriminatory nor attended by a demotion in rank or diminution in pay. Petitioner's refusal to obey the transfer therefore constituted willful disobedience of a lawful order of her employer which was a just cause for her dismissal. Thus:

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by us DISMISSING the petition filed in this case and AFFIRMING the Resolution dated October 23, 2003 of the public respondent NLRC in NLRC Case No. V-000177-2000.

SO ORDERED.[12]

In this petition before us, petitioner alleges that the Court of Appeals erred in:

I.

... HOLDING THAT THERE WAS NO ILLEGAL SUSPENSION AND DISMISSAL.

II.

... HOLDING THAT PETITIONER'S TRANSFER FROM BACOLOD CITY TO ILOILO CITY WAS A MANAGEMENT PREROGATIVE AND THAT IT WAS A PROMOTION.

III.

... NOT GRANTING THE RELIEF FOR REINSTATEMENT, BACKWAGES, MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.[13]

The basic issue to be resolved is whether petitioner's transfer from the Bacolod City Branch to the Iloilo City Branch was valid.

Petitioner contends that her transfer was never discussed by the parties at the start of her employment. Thus, it should only be done with her consent. She adds that the transfer was unnecessary, inconvenient and prejudicial.

Respondents counter that petitioner's transfer was made in good faith and in compliance with management's policy to reshuffle or transfer its employees. They also argue that petitioner will be given transportation and lodging allowance, hence, she will not incur any additional expense.

As it is, the question raised in this recourse is basically one of fact. Hornbook is the rule that in a petition for review, only errors of law may be raised.[14] Furthermore, factual findings of administrative agencies that are affirmed by the Court of Appeals are conclusive on the parties and not reviewable by this Court. This is so because of the specialized knowledge and expertise gained by these quasi-judicial agencies from presiding over matters falling within their jurisdiction. So long as these factual findings are supported by substantial evidence, this Court will not disturb the same.[15]

In this case, the Labor Arbiter, the NLRC, and the Court of Appeals were unanimous in their factual conclusions that petitioner's transfer from the Bacolod City Branch to the Iloilo City Branch was valid and that she was not illegally dismissed. We sustain such findings.

Jurisprudence recognizes the exercise of management prerogative to transfer or assign employees from one office or area of operation to another, provided there is no demotion in rank or diminution of salary, benefits, and other privileges, and the action is not motivated by discrimination, made in bad faith, or effected as a form of punishment or demotion without sufficient cause.[16]

To determine the validity of the transfer of employees, the employer must show that the transfer is not unreasonable, inconvenient, or prejudicial to the employee; nor does it involve a demotion in rank or a diminution of his salaries, privileges and other benefits. Should the employer fail to overcome this burden of proof, the employee's transfer shall be tantamount to constructive dismissal.[17]

As respondents creditably explained, and as admitted by petitioner herself, respondents have standing policies that an employee must be single at the time of employment and must be willing to be assigned to any of its branches in the country. Petitioner's contention that upon getting married, she no longer bound herself to be assigned to any of respondents' branches in the country is preposterous. Just because an employee gets married does not mean she can already renege on a commitment she willingly made at the time of her employment particularly if such commitment does not appear to be unreasonable, inconvenient, or prejudicial to her. Respondents claimed that travel time from the Bacolod City Branch to the Iloilo City Branch will only take about an hour by boat and that they were even willing to defray petitioner's transportation and lodging expenses. Petitioner never disputed these matters. There is no showing either that petitioner's transfer was only being used by respondents to camouflage a sinister scheme of management to rid itself of an undesirable worker in the person of petitioner.[18]

We have long stated that the objection to the transfer being grounded solely upon the personal inconvenience or hardship that will be caused to the employee by reason of the transfer is not a valid reason to disobey an order of transfer.[19] Such being the case, petitioner cannot adamantly refuse to abide by the order of transfer without exposing herself to the risk of being dismissed. Hence, her dismissal was for just cause in accordance with Article 282(a)[20] of the Labor Code. Consequently, petitioner is not entitled to reinstatement or separation pay and backwages.[21]

WHEREFORE, the petition is DENIED. The Decision dated September 16, 2005 and the Resolution dated April 21, 2006 of the Court of Appeals in CA-G.R. SP No. 82553 which affirmed the Resolution dated October 23, 2003 of the National Labor Relations Commission (NLRC) in NLRC Case No. V-000177-2000, are AFFIRMED with the MODIFICATION that the award of separation pay is deleted.

**SO ORDERED.**

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

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[1] Rollo, pp. 25-31. Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Ramon M. Bato, Jr. and Enrico A. Lanzas concurring.

[2] Id. at 34-35.

[3] CA rollo, pp. 52-53.

[4] Id. at 72.

[5] Id. at 73.

[6] Id. at 55.

[7] Id. at 74. Annex "C"

[8] Id. at 74. Annex "D"

[9] Id. at 14-18.

[10] Id. at 41-42.

[11] Id. at 53.

[12] Rollo, p. 30.

[13] Id. at 14.

[14] Aquino v. Court of Appeals, G.R. No. 149404, September 15, 2006, 502 SCRA 76, 84-85.

[15] Morales v. Skills International Company, G.R. No. 149285, August 30, 2006, 500 SCRA 186, 195.

[16] Philippine Industrial Security Agency Corporation v. Aguinaldo, G.R. No. 149974, June 15, 2005, 460 SCRA 229, 239; Mendoza v. Rural Bank of Lucban, G.R. No. 155421, July 7, 2004, 433 SCRA 756, 765-766.

[17] Floren Hotel v. National Labor Relations Commission, G.R. No. 155264, May 6, 2005, 458 SCRA 128, 145; Jarcia Machine Shop and Auto Supply, Inc. v. NLRC, G.R. No. 118045, January 2, 1997, 266 SCRA 97, 109.

[18] Homeowners Savings and Loan Association, Inc. v. NLRC, G.R. No. 97067, September 26, 1996, 262 SCRA 406, 420.

[19] Mercury Drug Corporation v. Domingo, G.R. No. 143998, April 29, 2005, 457 SCRA 578, 592.

[20] 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;

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[21] Genuino Ice Company, Inc. v. Magpantay, G.R. No. 147790, June 27, 2006, 493 SCRA 195, 213.

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