

DIONISIO S. DE CILLO, PETITIONER, VS. MOUNTAIN STAR TEXTILE MILLS, INC./ FIRST UNITY TEXTILE MILLS, INC., AND RICHARD C. TAN, RESPONDENTS.

G.R. No. 225660. October 06, 2021

Ponente: LEONEN, J.

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LEONEN, J.:

Despite the existence of a valid cause for disciplinary action, dismissal should not be imposed if it is too severe a penalty, especially if the erring employee has been in the service of their employer for a considerable length of time.

This resolves a Petition for Review[1] on Certiorari filed under Rule 45 of the Rules of Court, assailing the Decision[2] and Resolution[3] of the Court of Appeals that affirmed the Resolution[4] of the National Labor Relations Commission. The National Labor Relations Commission earlier reversed the Decision[5] of the Labor Arbiter, which found that Dionisio De Cillo was illegally dismissed by Mountain Star Textile Mills, Inc.

The facts are as follows:

In 1999, Mountain Star hired De Cillo as a quality control supervisor at its Montalban office. A decade later, it designated him as a warehouseperson in charge of securing its warehouse and the stocks within its premises. De Cillo was eventually transferred to the Quezon City compound of the company. There, he was provided living accommodations given that his working hours usually last from 3:00 p.m. to 1:00 a.m. and from 4:00 a.m. to 9:00 a.m.[6]

During the company's Christmas Party in 2012, De Cillo claimed he found a desk fan worth P500.00 and an electric kettle in the guardhouse. The security guard on duty allegedly informed him that the items were prizes he won in the raffle. De Cillo then brought the items to his quarters for his personal use.[7]

On March 11, 2013, his wife informed him through text that their electric fan at home broke down. That was when he decided to bring the electric fan home to Montalban, Rizal. To do this, he secured a gate pass from the compound security. The gate pass was approved by Ms. Elisa Gisala, assistant to the president of Mountain Star.[8]

Sometime later, however, De Cillo was instructed to bring the desk fan back to the compound to verify its ownership. He was then asked to explain why he had brought the desk fan home. He was also notified of his 30-day suspension pending investigation of his case.[9]

On May 8, 2013, De Cillo was informed that his services had been terminated. Mountain Star claimed the dismissal was due to his serious misconduct of bringing home an electric fan owned by its supplier.[10]

After receiving a letter of termination, De Cillo filed a Complaint before the National Labor Relations Commission for illegal dismissal, moral and exemplary damages, and attorney's fees.[11]

The Labor Arbiter held that De Cillo had been illegally dismissed.[12] They held that in labor cases, the employer has the burden of proving that the termination was for a valid or authorized cause. In this case, Mountain Star failed to establish the ownership of the electric fan given the absence of any documentary evidence on this point. On the other hand, De Cillo had already been using the electric fan for months without any protest from the company. That he obtained a gate pass for the electric fan tended to show that he believed he owned the electric fan.[13]

The dispositive portion of the Decision reads:

WHEREFORE, premises considered, respondent Mountain Star Textile Mills is hereby found guilty of illegal dismissal and is ordered to pay the complainant the total sum of P378,324.77 representing complainant's backwages and separation pay.

All other claims are dismissed for lack of merit.

SO ORDERED.[14]

Mountain Star appealed before the National Labor Relations Commission.

The National Labor Relations Commission reversed the decision of the Labor Arbiter.[15] It concluded De Cillo knew that the electric fan was not his. It also found that he even misrepresented to the security guard that he was bringing home his own property. It held that De Cillo cannot be said to be unaware of the rules and regulations pertaining to the use and safekeeping of company property. Thus, his violation constituted serious misconduct, and he was validly dismissed from service.[16]

The dispositive portion of its Resolution reads:

WHEREFORE, premises considered, respondents-appellants' appeal is GRANTED. The decision dated October 10, 2013 is VACATED and SET ASIDE and a new one entered dismissing the complaint for lack of merit.

SO ORDERED.[17]

De Cillo filed a Motion for Reconsideration, which the National Labor Relations Commission denied.[18]

Thus, De Cillo filed a Petition for Certiorari before the Court of Appeals.[19]

The Court of Appeals affirmed the Decision of the National Labor Relations Commission.[20] It held that De Cillo's act of bringing the desk fan home constituted serious misconduct or willful disobedience, warranting his dismissal under Article 282 of the Labor Code. The Court of Appeals explained:

Evidence would show that the said desk fan which the petitioner brought out of the company premises was not his own. He took the desk fan out of the company premises, for his own personal use. It was a deliberate act on his part to take property belonging to the company. His allegation that he won the same in the company Christmas Party in December 2012 is belied by his own statement in his Sinumpaang Salaysay that during the said party, he went on roving and that when he returned to the guardhouse, he was given the kettle and the said desk fan by one L/G Calimag, who was then on duty. Petitioner was told by Calimag that he (petitioner) won those items in the raffle. It must be noted that petitioner himself had no personal knowledge that he won the said desk fan in the party as he himself admitted that he was not there to witness the raffle. Other than petitioner's allegation of ownership of the desk fan, nothing is presented to substantiate such claim. On the contrary, evidence for the private respondents, such as the entries in the log book of the security guards and statements of the other employees, would prove that petitioner did not win the said desk fan, that the same does not belong to him but a sample from one of the company's supplier, and he brought the same out of the company premises.[21] (Citations omitted)

The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, the petition is DISMISSED.

SO ORDERED.[22]

The Court of Appeals also denied De Cillo's Motion for Reconsideration.

Thus, De Cillo filed a Petition for Review[23] before this Court.

Petitioner argues that the Court of Appeals erred in finding that Mountain Star validly dismissed him based on serious misconduct. He claims that his act of taking home the desk fan does not amount to serious misconduct because he won it in a raffle and had since been exercising ownership over it. He adds that his actions from December 2012 to March 2013 were consistent with ownership, and respondents never protested his personal use of the fan.[24] Further, he claims that respondents failed to prove their allegation that the electric fan was owned by one of Mountain Star's suppliers.[25] Assuming for the sake of argument that petitioner was mistaken in his belief that he won the desk fan, his actions still showed no wrongful intent necessary to render him liable for serious misconduct.[26] He adds that dismissal is too excessive for such a mistake given his 14 years of service with Mountain Star.[27]

On the other hand, respondents argue that the Petition should be dismissed for raising issues other than questions of law.[28] In any case, they argue that respondent Mountain Star validly dismissed petitioner for serious misconduct because he misrepresented ownership over the desk fan and lied about winning it in a raffle. They claim that he also stole the gate pass used to take the desk fan home and destroyed the evidence that he had taken the desk fan. Considering that the decision of the National Labor Relations Commission was based on established facts and law, they argue that the Court of Appeals Decision should be affirmed.[29]

We grant the petition.

Among the recognized exceptions to the rule that petitions for review under Rule 45 of the Rules of Court must only raise questions of law are cases such as this, where the Labor Arbiter's findings conflict with those of the National Labor Relations Commission and the Court of Appeals.[30] Thus, judicial review may be properly exercised here.

In holding that petitioner committed serious misconduct, the Court of Appeals defined misconduct and serious misconduct in this wise:

In a decided case involving theft of company property, [m]isconduct was defined as "the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment." For serious misconduct to justify dismissal under the law, "(a) it must be serious; (b) must relate to the performance of the employee's duties; and, (c) must show that the employee has become unfit to continue working for the employer." [31]

Despite outlining how misconduct may justify dismissal under the law, the Court of Appeals did not relate petitioner's acts to the enumerated circumstances. It did not show how his actions justified dismissal, considering no wrongful intent is apparent.

Contrary to the findings of the Court of Appeals, even the statements made by other Mountain Star employees, submitted in evidence by respondents themselves, tend to support petitioner's claim that he believed he won the desk fan.

For instance, Joel Borquil, a compound guard, narrated that when he asked De Cillo regarding the owner of the

fan, De Cillo told him that he had won the electric fan in a raffle during their Christmas Party. Thus, Borquil simply relayed this to the secretary, Imelda Ramirez, upon her inquiry.[32]

Notably, Ramirez's narration, that the fan was delivered to the compound in November 2012 and removed from the reception area in December 2012,[33] does not preclude petitioner's version of events being true.

Similarly, Gisala, the assistant who signed the gate pass, stated that De Cillo also informed her that he had won the fan in a raffle. When she asked why he had not brought the electric fan home earlier, he answered that he had been using it in his office quarter. He explained further that he needed to bring the electric fan home because their family's own unit had stopped working.[34]

Clearly, the evidence showing that petitioner willfully and knowingly took home property not belonging to him is wanting. For one, he had already been using the fan regularly before he decided to bring it home. He was also consistent in telling others that he had won it in a raffle.

Moreover, the Court of Appeals itself noted that petitioner was on duty at the time of the Christmas party and could therefore have no personal knowledge of what transpired during the raffle.[35] Thus, although one employee certified that petitioner won only a kettle and not a desk fan, there was little attempt to show petitioner clearly knew that he had won only the kettle.

Overall, the record does not show petitioner's willful intent to take something that he did not own, or to willfully break any of the rules of the company.

To this Court, the evidence shows that petitioner was under the impression that he had won the electric fan. While this impression may have been wrong, his actions were consistent with a person under the impression that they own an object.

Given that wrongful intent has not been established, petitioner's dismissal from service was not justified. This is especially considering his 14 years of service with Mountain Star without any reprimand.[36]

Even in cases where it was clear that an employee had violated specific company rules involving the taking of a company property, this Court has seen fit to weigh the gravity of the transgression as against the service record of the employee in determining whether the penalty of dismissal is proper.

In *Manila Electric Company v. National Labor Relations Commission*,[37] this Court reiterated this settled rule:

This Court has held time and again, in a number of decisions, that notwithstanding the existence of a valid cause for dismissal, such as breach of trust by an employee, nevertheless, dismissal should not be imposed, as it is too severe a penalty if the latter has been employed for a considerable length of time in the service of [their] employer.

In a similar case, this Court ruled:

"As repeatedly been held by this Court, an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of breach of trust [toward] [their] employer and whose continuance in the service of the latter is patently inimical to its interest. The law in protecting the rights of the laborers, authorized neither oppression nor self-destruction of the employer.

"However, taking into account private respondent's 'twenty-three (23) years of service which undisputedly is unblemished by any previous derogatory record' as found by the respondent Commission itself, and since he has been under preventive suspension during the pendency of this case, in the absence of a showing that the continued employment of private respondent would result in petitioner's oppression or self destruction, We are of the considered view that his dismissal is a drastic punishment ...

xxx xxx xxx

"The ends of social and compassionate justice would therefore be served if private respondent is reinstated but without backwages in view of petitioner's obvious good faith." [38] (Citations omitted)

The Labor Code provides that an employee unjustly dismissed from work is entitled to reinstatement, as well as backwages until their actual reinstatement. [39] Petitioner is thus entitled to backwages from his illegal dismissal in 2013 until his reinstatement.

However, considering that a continued relationship between petitioner and respondents is no longer viable, separation in lieu of reinstatement is in the best interest of both parties.

ACCORDINGLY, the petition is granted. The May 14, 2015 Decision and December 29, 2015 Resolution of the Court of Appeals in CA-G.R. SP No. 136549 are REVERSED and SET ASIDE. Respondents Mountain Star Textile Mills, Inc./First Unity Textile Mills, Inc. are hereby ORDERED to PAY petitioner Dionisio S. De Cillo backwages from the date he was illegally dismissed, as well as separation pay computed from 1999 until the finality of this Decision, at the rate of one (1) month salary for every year of service.

Further, respondent Mountain Star Textile Mills, Inc. is ORDERED to pay petitioner Dionisio S. De Cillo legal interest of six percent (6%) per annum of the foregoing monetary awards, computed from the finality of this Decision, until its full satisfaction. [40]

The Labor Arbiter is hereby ORDERED to make another recomputation according to these directives.

SO ORDERED.

Carandang, Zalameda, Rosario, and Dimaampao, [*] JJ., concur.

[*] Designated additional Member per Special Order No. 2839 dated September 16, 2021.

[1] Rollo, pp. 21-40.

[2] Id. at 45-53. The May 14, 2015 Decision in CA-G.R. SP. 136549 was penned by Associate Justice Romeo F. Barza and concurred in by Associate Justices Mario V. Lopez (now a member of this Court) and Agnes Reyes-Carpio.

[3] Id. at 55-56. The December 29, 2015 Resolution in CA-G.R. SP. 136549 was penned by Associate Justice Romeo F. Barza and concurred in by Associate Justices Mario V. Lopez (now a member of this Court) and Agnes Reyes-Carpio.

[4] Id. at 81-89. The February 28, 2014 Resolution in NLRC NCR Case No. 06-08728-13 was penned by Commissioner Pablo C. Espiritu, Jr. and concurred in by Presiding Commissioner Alex A. Lopez and Commissioner Gregorio O. Bilog III of the Third Division of the National Labor Relations Commission.

[5] Id. at 74-80. The October 10, 2013 Decision in NLRC NCR Case No. 06-08728-13 was penned by Labor Arbiter Beatriz T. De Guzman of the National Capital Region Arbitration Branch of the National Labor Relations Commission.

[6] Id. at 46.

[7] Id.

[8] Id.

[9] Id. at 46-47.

[10] Id. at 47-48.

[11] Id. at 47.

[12] Id. at 74-80.

[13] Id. at 78-79.

[14] Id. at 80.

[15] Id. at 81-89.

[16] Id. at 87-88.

[17] Id. at 89.

[18] Id. at 91.

[19] Id. at 57-73.

[20] Id. at 45-53.

[21] Id. at 50-51.

[22] Id. at 53.

[23] Id. at 21-40.

[24] Id. at 281.

[25] Id. at 283.

[26] Id.

[27] Id. at 284.

[28] Id. at 297-301.

[29] Id. at 301-303.

[30] *Cagatin v. Magsaysay Maritime Corp.*, 761 Phil. 64, 79 (2015) [Per J. Peralta, Third Division].

[31] *Rollo*, p. 50.

[32] Id. at 133.

[33] Id. at 137.

[34] Id. at 136.

[35] Id. at 51.

[36] Id. at 284.

[37] 256 Phil. 735 (1989) [Per J. Medialdea, First Division].

[38] Id. at 740-741.

[39] LABOR CODE, art. 294.

[40] See *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013) [Per J. Peralta, En Banc].

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