

DESTILERIA AYALA Y CIA., INC., PETITIONER, VS. LIGA NACIONAL OBRERA DE FILIPINAS AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. 48346. August 09, 1949

Ponente: REYES, J.

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REYES, J.:

This is a petition for certiorari filed in 1941 to review an order of the Court of Industrial Relations. The record having been destroyed during the war, the case is not before us on a reconstituted record.

It appears that under date of December 11, 1940, Destileria Ayala y Compañia, Inc., petitioned the Court of Industrial Relations for authority to dismiss its bill-collector, Antonio Valdez, and its cashier, Francisco Serrano, the first for embezzlement and the second for alleged negligence in connection with said embezzlement. At the time, there was pending before that Court a dispute between the company and its employees concerning wages, and one of the employees affected by the dispute was the said Francisco Serrano for whom it was requested that his monthly salary, which was reduced in 1934, be restored to its former level. The employees were then represented by the labor union to which they were affiliated, the "Liga Nacional Obrera de Filipinas", one of the present respondents.

After due hearing, the Industrial Court found Francisco Serrano to be "absolutely free from blame" and innocent of the charges imputed to him and, attributing his proposed dismissal to the company's desire to get rid of him because of his union activities in connection with the movement for increase of salaries in the company, denied the petition for authority to dismiss him. It is this decision, as contained in the order of the Court of March 13, 1941, that we are asked to review.

It would be idle for us to review the findings of fact of the Industrial Court. This we are not supposed to do both under the Rules of Court and the law creating that body. It would likewise be useless to discuss the petitioner's claim that the Industrial Court erred "when it held that the dismissal of Francisco Serrano would be a violation of Section 19 of Act 143 and section 5 of Act 213." It does not appear from the order complained of that the Industrial Court has so held. The only question for determination is whether, with his innocence completely established, Francisco Serrano could still be dismissed by his employer on the ground that the latter had already lost confidence in him.

It is contended that in a case where the relation between employer and employee is essentially one of trust, such as that existing between herein petitioner and its Cashier, the employer is not bound to retain the employee after the former has lost confidence in the latter. And it is further urged that for the employer to have the right to dismiss such an employee, it is not necessary that the employer should have suffered injury from the employee's misconduct, it being sufficient that such misconduct might reasonably lead to the employer's injury. The argument thus assumes that the cashier in the present case has been guilty of misconduct. The assumption, however, is contrary to the express finding of the Industrial Court that this employee had not been in any way negligent and

was entirely free from blame in connection with the embezzlement committed by the bill-collector. This conclusion is one of fact, and there being evidence to support it, the same cannot be altered by this Court.

Our attention has been directed to the case of *Miller vs. Jones* (178 Iowa, 168) where it was declared that if the employee's "conduct was such as to indicate that his interests were hostile to those of his master, it was the right of the master to discharge him before any injury was in fact done." But it is obvious from this quotation that to give the employer the right to discharge his employee before actual injury has been caused, the employee's conduct should indicate that his interests are hostile to those of his employer. Such, however, is not the case here. Mere suspicion or simple apprehension of danger or prejudice is insufficient to justify removal of the employee (39 C. J., pp. 80-81), and to dismiss an innocent employee, such as the cashier in the present case, who, as found by the Industrial Court, has an untarnished record in the company for many years, just because he has identified himself with the movement to obtain concessions from the company in the matter of salaries, is to discourage legitimate union activities and frustrate the purpose of our labor laws.

The petition for review is, therefore, dismissed and the order appealed from is affirmed with costs against the appellant. So ordered.

Moran, C.J., Ozaeta, Paras, Feria, Perfecto, Bengzon, Padilla, Tuason, and Montemayor, JJ., concur.

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