

SALVADOR LACORTE, PETITIONER, VS. HON. AMADO G. INCIONG IN HIS CAPACITY AS DEPUTY MINISTER OF LABOR; HON. FRANCISCO L. ESTRELLA IN HIS CAPACITY AS REGIONAL DIRECTOR, MINISTRY OF...

G.R. No. 52034. September 27, 1988

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

In this special civil action for certiorari and mandamus, petitioner Salvador Lacorte seeks [1] to annul and set aside the Order dated May 19, 1978, issued by respondent Labor Regional Director Francisco Estrella in T-IV-289-77 which granted the application for clearance to terminate petitioner's employment filed by private respondent Asean Fabricators, Inc. as well as the Order dated August 23, 1979, issued by the then Deputy Minister of Labor Amado Gat Inciong affirming the aforementioned order, petitioner claiming that said orders were issued by the public respondents with grave abuse of discretion and in violation of his right to due process, and [2] to direct his reinstatement with payment of backwages.

Petitioner, an employee of respondent corporation, was found by respondent Estrella to have committed certain acts in breach of the trust and confidence of his employer, in the questioned Order[1] which reads as follows:

"O R D E R

"This is an application for clearance to terminate the services of complainant filed by respondent. The record shows; that complainant was hired as a warehouseman whose duties were among others, to receive and store the raw and junk materials used by respondent in its business.

"On January 19, 1977, complainant offered to purchase some obsolete, defective and non-usable junk materials from respondent. The respondent agreed and issued a cash invoice for the purchase of the scrap items. When complainant tried to bring out these items he was accosted by respondent's security guard and in the course of the investigation, it was discovered that the items sought to be brought out by complainant weighed more than what he actually purchased. Furthermore, it was found out that the items were not junk since some parts were brand new and usable. As a consequence the respondent filed a case for qualified theft against complainant before the Provincial Fiscal of Bulacan.

"The criminal complaint was however, dismissed for insufficiency of evidence.

"While we are not unmindful of the resolution by the fiscal regarding the culpability of complainant, still we cannot put aside the fact that he occupied a fiduciary position as a warehouseman. It is noteworthy to note that the quantum of evidence in criminal cases is markedly different from that in labor cases. The complainant by his own acts show that he does not deserve the continuing trust of respondent. We would be unduly burdening respondent if we were to deny the application for it would be cast in a position where it has an employee over whom it has no trust and confidence.

"WHEREFORE, premises considered, the application for clearance to terminate the employment of complainant is hereby granted.

"SO ORDERED."

On appeal by petitioner, the aforementioned order was affirmed by respondent Inciong in a one-page order, which is also questioned in this petition, on the basis of his findings that "(A)fter a careful review of the entire record of the case, we find no valid and compelling reason to disturb the Order appealed from it being sufficiently supported by the evidence on record and the, law applicable." [2]

Dissatisfied with the aforequoted order, petitioner took the present recourse.

As correctly presented by the counsel for petitioner, [3] the only issue in this case is whether or not public respondents acted arbitrarily and/or with grave abuse of discretion in connection with the grant of the application for clearance to terminate the employment of petitioner filed by respondent corporation.

The thrust of petitioner's arguments is that public respondents issued the assailed orders with grave abuse of discretion and in violation of his right to due process, considering that the criminal complaint for qualified theft filed by respondent corporation against petitioner based on the alleged attempted stealing of some company property on January 22, 1977, was dismissed by the fiscal for insufficiency of evidence; that it took private respondent several months after the incident before seeking clearance to terminate his services during which he was allowed to remain in his job, negating any claim of loss of confidence arising therefrom; that the order of Estrella failed to consider the affidavits of petitioner and a fellow employee claiming that the real motive for dismissing him is not loss of confidence but his union activities; and, that petitioner was allegedly not aware of the weighing and examination of the withheld boxes containing the scrap materials conducted by respondent corporation after he was accosted by the company guards on January 22, 1977, in violation of his right to due process.

At first impression, petitioner's arguments in support of his claim of denial of due process appear to hold water considering the constitutional as well as statutory commands and guarantees for the protection of the rights of labor. The records, however, do not support his allegations; neither do the law and jurisprudence on this matter.

A review of the records reveals that petitioner was accorded more than ample opportunities to fully present his side of the case. After private respondent's application for clearance to terminate petitioner's employment was filed on October 7, 1977, the case was set for hearing in Regional Office No. IV on December 6, 1977 but was reset for December 13, 1977. In the hearing on the latter date, the parties were required to submit their respective position papers. Petitioner filed his position paper on December 21, 1977, while the private respondent filed its own on December 29, 1977. The record further shows that petitioner did not introduce his affidavits during the hearing and until the case was submitted for decision. This may explain why in the order of Estrella on May 19, 1978, there was no mention of said affidavits of petitioner.

When said order was appealed, further hearings were conducted but petitioner again did not introduce any evidence until the case on appeal was deemed submitted for decision on January 24, 1979. It was only on January 29, 1979, that petitioner filed the affidavits [4] claiming for the first time that the real motive for his termination was his union activities. From the time the parties were required to submit their respective position papers on December 21, 1977 until respondent Estrella issued his order which was appealed and throughout the appeal proceedings which was deemed submitted on January 24, 1979, petitioner did not present those affidavits and did so only after more than one year from the initial hearing. It defies explanation other than that it was a mere afterthought why it took petitioner so much time to prepare those two affidavits which contain nothing more than the bare allegation, obviously self-serving, that his union activities prompted his termination. We cannot

understand why he failed to present them until the case was already on appeal. Petitioner's imputation of omissions must therefore fail. He has not succeeded in overcoming the presumption of regularity in the performance of respondent labor officials' functions in issuing the orders.

As this Court has stated in similar cases — "the findings of facts of quasi-judicial agencies like the NLRC, which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but at times even finality if such findings are supported by substantial evidence"[5] and that in the exercise of their jurisdiction, 'when confronted with conflicting versions on factual matters, it is for them in the exercise of discretion to determine which party deserves credence on the basis of evidence received,' subject only to the requirement that their decision must be supported by substantial evidence.[6] Accordingly, petitioner needed to show by substantial evidence that he was indeed an active union member who is expected to get the ire of the company, but by way of evidence on this point all that petitioner presented were his and a fellow employee's self-serving affidavits purportedly showing that his union activities prompted his termination, which quantum of evidence fails the substantiality requirement test to support his claim.

Petitioner, however, contends, that the dismissal by the Provincial Fiscal of the criminal complaint for qualified theft filed against him by private respondent for insufficiency of evidence supports his claim that he is innocent of the imputed acts of stealing and this should have prompted the respondents to dismiss the application for clearance to terminate his employment on the basis of the imputed acts of stealing.

We cannot subscribe to this view. The purpose of the proceedings before the fiscal is to determine if there is sufficient evidence to warrant the prosecution and conviction of the accused. In assessing the evidence before him, the fiscal considers the basic rule that to successfully convict the accused the evidence must be beyond reasonable doubt and not merely substantial. On the other hand, to support findings and conclusion of administrative bodies only substantial evidence is required. It does not follow that once the fiscal dismisses the complaint for qualified theft, respondent officials should also have decided in favor of petitioner. For one, the evidence presented before the two bodies may not be necessarily identical. Secondly, the appreciation of the facts and evidence presented is an exercise of discretion on the part of administrative officials over which one cannot impose his conclusion on the other. As we have already ruled, "the conviction of an employee in a criminal case is not indispensable to warrant his dismissal, and the fact that a criminal complaint against the employee has been dropped by the fiscal is not binding and conclusive upon a labor tribunal.[7]

Further, petitioner would like to bolster his claim that the incident on January 22, 1977 was not the real cause for the move to terminate his services but his union activities by emphasizing the fact that he was allowed to remain in his post even after the said incident, the application for clearance having been filed only several months later.

We are not persuaded. It is intimated by respondents that the respondent company conducted its investigation on the alleged theft before filing the criminal charges and the application for clearance, and only after having been convinced at the veracity of the reported attempt to steal. That the company investigated the incident first while allowing petitioner to stay on his job pending the investigation is not only proper but in accord with fair process. That the investigation took time is understandable, considering that it was not the only preoccupation of respondent corporation.

Finally, petitioner claims that on January 22, 1977, when the company reportedly caught petitioner attempting to spirit away some brand new and usable company property, there was no actual weighing and examination of the boxes containing the scrap materials. Suffice it to say that it is now too late in the day for petitioner to raise these matters of facts in this petition. At any rate, his evidence does not substantiate his claim.

The Court considered the records of this case as a whole, and we are convinced that there is substantial basis for

the Orders issued by respondent labor officials.

WHEREFORE, this petition is dismissed for lack of merit.

SO ORDERED.

Feliciano, Bidin and Cortes, JJ., concur.

Gutierrez, Jr., J., on leave.

[1] Annex "A", Petition, pp. 16-17, Rollo.

[2] Annex "B", Petition, p. 18, Rollo.

[3] p. 4, Memorandum for Petitioner, p. 52, Rollo.

[4] Annexes "A" & "B", pp. 8-9, Memorandum for Petitioner; pp. 55-A - 56, Rollo.

[5] Manila Mandarin Employees Union v. NLRC, G. R. No. 76989, September 29, 1987.

[6] Gelmart Industries [Phil.], Inc. v. Leogardo Jr., G.R. No. 70544, November 5, 1987.

[7] Sea-Land Service, Inc. v. NLRC, et al., G.R. No. 68212, May 24, 1985, 136 SCRA 544.

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