

MANILA PRESS, INC., PETITIONER, VS. HON. AMADO G. INCIONG, IN HIS CAPACITY AS DEPUTY MINISTER OF LABOR, NATIONAL LABOR RELATIONS COMMISSION, RICARDO CAJUCOM AND ROGELIO ROLDAN, ...

G.R. No. 52709. June 24, 1983

Ponente: AQUINO, J.

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AQUINO, J.:

This is a case of dismissal of workers. There is no dispute as to the facts. On September 24, 1974, Mariano Rodrigo, a laborer of the Manila Press, Inc., while on his way out of the press compound, was caught by the security guard carrying ten envelopes. Rodrigo was charged with frustrated theft in the city court of Caloocan City in Criminal Case No. 95084. He was convicted.

In connection with Rodrigo's case, his four co-employees, named Ricardo Cajucom, Rogelio Roldan, Felix Lozano and Marcelino Perucho, in order to exculpate him, executed a joint affidavit dated October 7, 1974 wherein they stated that they witnessed and heard the factory supervisor, Yat Chang Chuan, giving Rodrigo permission to take out the several pieces of envelope. That was denied by Yat Chang Chuan.

Manila Press, Inc. lodged in the city court of Caloocan City a complaint for perjury against Cajucom, Roldan, Lozano and Perucho in Criminal Case No. 97362. In the meanwhile, or on December 26, 1974, Manila Press filed with the Ministry of Labor an application for clearance to terminate the employment of the said employees (p. 164, Rollo).

The city court convicted Cajucom of perjury. He failed to perfect his appeal. So, the judgment against him became final. Roldan and Perucho appealed their judgment of conviction for perjury. The Court of Appeals acquitted them on the ground of reasonable doubt (*People vs. Roldan*, CA-G.R. No. 22352-CR., August 22, 1980).

With respect to the labor case, Manila Press, Inc. terminated the services of Cajucom and Roldan on October 8, 1975 (p. 165, Rollo). On June 17, 1976, Cajucom and Roldan filed another complaint, charging Manila Press, Inc. with illegal dismissal, unfair labor practice and nonpayment of sick and vacation leaves.

The Labor Arbiter in his decision of July 11, 1977 ordered the reinstatement of Cajucom and Roldan to their jobs with backwages from October 8, 1975 up to the time of the actual reinstatement without loss of seniority rights and other benefits (p. 166, Rollo).

The National Labor Relations Commission affirmed that decision on March 17, 1978. The Deputy Minister of Labor affirmed that decision in his order of September 10, 1979 (pp. 43 and 168, Rollo).

We hold that as to Cajucom the dismissal was proper. The labor agencies acted with grave abuse of discretion amounting to lack of jurisdiction in ordering his reinstatement. He committed perjury to favor a fellow employee.

He is guilty of misconduct. This is admitted by the Solicitor General.

With respect to the case of Roldan, who was convicted by the lower court of perjury and ultimately acquitted by the Court of Appeals on the ground of reasonable doubt in its 1980 decision, Roldan pleads for compassionate justice. In his letter to the Chief Justice dated August 26, 1982, he said:

"Sir, I am invoking your kindness to have the aforementioned case decided already as my family and I are already suffering from abject poverty. I do not have the proper education to use for looking for work. Besides, due perhaps to lack of food, I am suffering from constant dizziness and premature aging. But most of all, I pity my seven children and my wife who, despite her effort also of selling fish, what she earns is not even enough for our single meal, this, despite the little help I am making."

It is true that conviction of an employee in a criminal case is not indispensable to warrant his dismissal by his employer (*National Labor Union, Inc. vs. Standard Vacuum Oil Company*, 73 Phil. 279; *Nevans vs. Court of Industrial Relations*, L-21510, June 29, 1968, 23 SCRA 1321, 1328), nevertheless, considering Roldan's plea for compassion, we think that the ends of justice would be served by allowing his reinstatement without backwages.

WHEREFORE, the judgment of the National Labor Relations Commission dismissing Cajucom is affirmed but the dismissal of Rogelio Roldan is reversed and set aside. The Manila Press, Inc. is ordered to reinstate Roldan immediately to his former position or to any other similar job. No costs.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, De Castro and Escolin, JJ., concur.
Abad Santos, J., took no part.

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