

PIER TWO ARRASTRE SERVICES CORPORATION, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION, EVELYN RITUAL, JAVIER CATACUTAN AND CESAR RAFAEL, RESPONDENTS.

G.R. No. 52760. June 22, 1984

Ponente: RELOVA, J.

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RELOVA, J.:

On October 30, 1979, respondent National Labor Relations Commission issued its decision in NLRC Case No. RB-IV-20480-78, entitled: "Evelyn Ritual, Javier Catacutan and Cesar Rafael vs. Pier Two Arrastre Services Corporation," the dispositive portion of which reads:

"PREMISES CONSIDERED, the appealed Decision is, as it is hereby SET ASIDE and another one ENTERED ordering the reinstatement of herein complainants-appellants to their former positions with full backwages and without loss of seniority rights and other privileges appurtenant thereto. Respondent-appellee is furthermore directed to show proof of compliance with this Decision after ten (10) days from receipt of the same." (p. 24, Rollo)

Petitioner Pier Two Arrastre Services Corporation (PITASECO, for short) moved for the reconsideration of said decision. When said motion was denied this petition for review on certiorari with prayer for a writ of prohibition was filed, petitioner raising the following issues:

"I. Whether the Honorable Commission erred and concomitantly incurred in a grave abuse of discretion in holding that the various trespasses committed by the private respondents, including violations of company rules and fraudulent acts, were condoned or excused by the petitioner.

"II. Whether the Honorable Commission erred and concomitantly incurred in grave abuse of discretion in holding that where employees are separated for violation of company rules, as in this case, and where such employees had been engaged in union activities, the presumption is that they were discharged for such activities.

"III. Whether the Honorable Commission erred and concomitantly incurred in a grave abuse of discretion in holding that various cases previously litigated between the petitioner and other members of the union constituted already an unfair labor practice on the part of the petitioner." (pp. 8-9, Rollo)

Private respondents Evelyn Ritual, Javier Catacutan and Cesar Rafael were all employees of petitioner PITASECO and were active members of Pier Two Arrastre Services Corporation Labor Union (PITASCLU, for short), the labor organization of PITASECO employees. In the Union elections of October 21, 1976, Ritual was elected President, while Catacutan and Rafael were elected Vice-President and Member of the Board, respectively. Following private respondents' election, several cases against petitioner company were initiated and filed by them, re PITASECO's violation of labor laws. Thereafter, petitioner did not give work assignments to Evelyn Ritual despite her promotion to the position of Billings In-Charge. Likewise, Catacutan and Rafael were denied work assignments. In January 1978, petitioner filed with the Regional Office of the Ministry of Labor

applications for clearance to terminate the services of Evelyn Ritual for alleged "gross in-subordination, misconduct, inefficiency and habitual absenteeism;" Javier Catacutan, for alleged "gross in-subordination, inefficiency, negligence of duty, abandonment of post and sabotage;" and Cesar Rafael for alleged "gross insubordination, inefficiency, negligence, abandonment of post, habitual absenteeism and sabotage." Likewise, private respondents filed with the Regional Office of the Ministry of Labor complaint against petitioner for unfair labor practice and illegal dismissal.

When efforts at conciliation failed, the petitioners were required to submit their respective position papers and supporting documents and, on the bases thereof, the Labor Arbiter rendered his decision on November 15, 1978, dismissing for lack of merit private respondents' complaint for unfair labor practice against petitioner but ordering it to pay private respondents Ritual, Catacutan and Rafael separation pay.

As earlier stated, respondent NLRC reversed the decision of the Labor Arbiter. Petitioner takes issue with the findings of respondent NLRC that "[t]he charge of respondent-appellee that herein complainants-appellants were guilty of tardiness, absences and undertime, is to Our Mind, only a subterfuge to ease complainants-appellants from their jobs by reason of their militant union activities. The reason for this observation of Ours is not difficult to see. The record fails to disclose that herein complainants-appellants were ever warned, reprimanded or suspended for such tardiness, absences and undertime leaving Us the conclusion that, admitting that they incurred this tardiness, absences and undertime, the same must have either been condoned or excused. We note that such absences, tardiness and undertime were committed in 1976 yet, but herein complainants-appellants were not warned for the same." (p. 23, Rollo)

Upon the foregoing exposition We find that there is no substantial justification for setting aside the aforequoted findings of the public respondent. On the contrary, private respondents alleged and petitioner did not deny that Ritual was promoted three times, to wit: on May 26, 1975, from Freight Computer Clerk to Payroll Clerk; on June 1, 1976, from Payroll Clerk to Processing Clerk; and, on October 30, 1976, from Processing Clerk to Billings InCharge; nor the fact that she was regularly paid her salaries until she was dismissed from the service.

Similarly, Catacutan and Rafael were paid their regular salaries up to the time of their dismissal and at no time were they ever warned, reprimanded or suspended from any offense or violation of company rules.

On the other hand, petitioner's application for clearance was filed on January 16, 1978 with the Regional Office of the Ministry of Labor and the following day, January 17, they were outrightly dismissed from the service. Pursuant to Section 2, Rule XIV, Book V of the Revised Rules implementing the labor code,

"Sec. 2. Shutdown or dismissal without clearance. - Any shutdown or dismissal without prior clearance shall be conclusively presumed to be termination of employment without a just cause. The Regional Director shall, in such case, order the immediate reinstatement of the employee and the payment of his wages from the time of the shutdown or dismissal until the time of reinstatement."

Thus, We find no error or abuse of discretion committed by respondent Commission in ordering the reinstatement of private respondents.

ACCORDINGLY, for lack of merit, the petition is hereby DISMISSED.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

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