

PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION AND EDUARDO PANGAN, RESPONDENTS.

G.R. No. 53552. October 18, 1988

Ponente: CORTES, J.

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CORTES, J.:

Petitioner assails the decision of the National Labor Relations Commission (NLRC) ordering the reinstatement of private respondent notwithstanding his having committed theft and misappropriation of company properties.

Private respondent Eduardo Pangan was employed by the Philippine Long Distance Telephone Company (hereinafter referred to as PLDT) as lineman-helper with rank of Grade I in 1970.

At the time of his dismissal from service he was occupying the position of lineman II. The nature of his job entails the following duties and responsibilities: repairing of telephone lines, canvassing telephone numbers affected by Estimates, Job Orders and Routine Orders, and handling cable facilities for various cable troubles.

Sometime in early 1977, it was discovered that Pangan with three (3) other PLDT employees committed pilferages of company properties. According to the Audit Report conducted by a PLDT auditor on Small Tool Accountabilities of Installer-Repairmen Personnel, Pangan's audit tool accountability record disclosed that he returned to stock and credited at cost to his account worthless materials and items valued at P2,402.00 to offset previous requisitions charged to him.

When asked to explain why he returned unserviceable materials, Pangan admitted having sold two (2) new leather belts and one (1) handset all costing P1,609.00. He pleaded as an excuse his dire need for money to help defray his expenses incurred in his goiter operation plus the cost of medicines he had to purchase. Thus in the confrontation conducted by the company Audit Supervisor, Pangan explained:

Q - In these requisitions, there are five (5) belt tool leather. Did you recover all these?

A - I'm now using one. I sold 2 units and recovered the rest.

Q - How come then that you recovered defective units everytime you requested when you supposedly sold 2 units?

A - We buy defective similar units which I recovered to the Bodega.

Q - How much did you sell each unit?

A - P120.00 per unit.

Q - How much did you buy defective items for recoveries?

A - P20.00 per unit.

Q - There are 2 hand sets under your accountability. Did you also sell one?

A - Yes, for P100.00.

Q - How did you recover this?

A -

Again, I buy defective similar item at a nominal cost lower than my selling price.

Q - Do you have something more to say?

A -

Last November 1976, I was operated with goiter. My hospital bills were so big in amount and added to this I was in dire need of money for my medicines. I was forced to sell some of my accountabilities because of these needs. I have no intention previously to do this irregularity had it not been for my operation. [Labor Arbiter's decision, p. 3, Rollo, p. 20.]

When informed of his eventual dismissal Pangan interposed no opposition. Consequently, on May 31, 1977 PLDT filed an application for clearance to terminate his services with preventive suspension, on the ground of theft and misappropriation of company properties. On September 27, 1977 the Department of Labor granted the same.

Thereafter, Pangan filed a letter-complaint with the Department of Labor in opposition to the company's application for clearance to terminate his services. The complaint was certified for compulsory arbitration. On December 14, 1978 the Labor Arbiter dismissed private respondent's complaint for lack of merit.

On appeal the NLRC reversed, with one commissioner voting for the affirmance of the Labor Arbiter's decision, and ordered Pangan's reinstatement without backwages, explaining in its decision dated March 12, 1980, that:

* * *

Concluding this Decision, We reiterate Our well considered view that the Labor Arbiter gravely abused his

discretion in imposing the supreme industrial penalty of dismissal to the act committed by herein complainant-appellant in the light of the attendant circumstances of the instant case. In arriving at this conclusion, however, it is believed and We hold that complainant-appellant should be reinstated to his former position as Lineman but without the usual backwages attendant to it. To do so would, in effect, be giving premium to an act which is a legitimate ground for disciplinary action were it not for the peculiar circumstances which to Our mind mitigates the imposition of the supreme industrial penalty of separation from the service. More so, as in the instant case where the company acted in good faith in preventively suspending an employee and followed it with an application for clearance to terminate employment. [NLRC Decision, pp 8-9, Rollo, pp. 31-32.] (Underscoring supplied.)

* * *

As found by the NLRC the peculiar circumstances that mitigate the imposition of the supreme industrial penalty of separation from service are as follows:

- On one occasion, Pangan had risked his life during an emergency when the Pasay Central Office of PLDT caught fire when he tried to protect company properties from being totally destroyed that no less than the PLDT President and Vice-President commended him for his exceptional courage [NLRC Decision, p. 3, Rollo, p. 26.];
- That Pangan sold the item valued at P1,600 for only P100. This could only mean that he was in dire need of money as in fact he needed it for an operation of his goiter [NLRC Decision, p. 4, Rollo, p. 27.]; and
- Since the time Pangan had been placed under preventive suspension and up to the writing of the NLRC decision, considerable time had already elapsed as to constitute his punishment [NLRC Decision, pp. 4-5, Rollo, p. 28.]

PLDT now files this special civil action of certiorari and prohibition with preliminary injunction assigning the following error:

RESPONDENT NATIONAL LABOR RELATIONS COMMISSION COMMITTED A GRAVE ABUSE OF DISCRETION WHEN IT ORDERED THE REINSTATEMENT OF RESPONDENT EDUARDO PANGAN TO HIS FORMER POSITION NOTWITHSTANDING THE FACT THAT HE COMMITTED A SERIOUS ACT OF MISCONDUCT WHICH CONSTITUTES A JUST AND VALID CAUSE FOR HIS DISMISSAL. [Rollo, p. 4.]

On April 14, 1980 the Supreme Court issued a temporary restraining order as prayed for by PLDT restraining the NLRC from enforcing its decision.

The aforesated mitigating circumstances notwithstanding this Court finds that petitioner had valid ground to terminate private respondent and NLRC acted with grave abuse of discretion in ordering his reinstatement.

Theft of company property is a recognized just and valid cause for dismissing an employee as falling under the following specific provision of the Labor Code:

Art. 282. Termination by employer. - An employer may terminate an employment for any of the following just causes:

(a) Serious misconduct . . . ;

* * *

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

* * *

(e) Other causes analogous to the foregoing.

In the case of Firestone Tire and Rubber Co. of the Phils. v. Lariosa [G.R. No. 70479, February 27, 1987, 148 SCRA 187] involving a factory worker who was apprehended at the gate during a routine check by the company security guards with possession of company properties, namely, sixteen (16) wool flannel swabs, the Supreme Court set aside the NLRC decision ordering the worker's reinstatement without backwages, stating that:

* * *

There is no gainsaying that theft committed by an employee constitutes a valid reason for his dismissal by the employer. Although as a rule this Court leans over backwards to help workers and employees continue with their employment or to mitigate the penalties imposed on them, acts of dishonesty in the handling of company property are a different matter. [at p. 192.] (Underscoring supplied.)

* * *

The reason for this rule is to protect both labor and management. Labor, because:

* * *

The dismissal of a dishonest employee is as much in the interests of labor as it is of management. The labor force in any company is protected and the workers' security of tenure strengthened when pilferage of equipment, goods, and products which endangers the viability of an employer and, therefore, the workers' continued employment is minimized or eliminated and consequently labor-management relations based on mutual trust and confidence are promoted. [International Hardwood and Veneer Co. of the Phils. v. Leogardo, G.R. No. 57429, October 28, 1982, 117 SCRA 967, 973-974.]

* * *

And management, because as this Court had consistently held:

* * *

. . . an employer cannot legally be compelled to continue with the employment of a person who admittedly was guilty of misfeasance or malfeasance towards his employer, and whose continuance in the service of the latter is patently inimical to his interests. The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer. . . . [Manila Trading and Supply Co. v. Zulueta, 69 Phil. 485, 486-487 (1940).]

* * *

In the case at bar private respondent is admittedly guilty not only of violating the law but also the company rules and regulations as well imposing the penalty of dismissal on first offense of an employee found guilty of selling or disposing of company property without proper authority [Code of Conduct of PLDT Employees, Labor Arbiter's decision, p. 5, Rollo, p. 22.]

This Court is not unmindful of the plight of the workers throughout the country nor of the Constitutional provisions, laws and statutes protecting them. However the Court must likewise balance these with the rights given to management particularly when there is just cause for dismissing an erring employee.

WHEREFORE, the petition is GRANTED. The NLRC decision is SET ASIDE and the temporary restraining order issued by this Court on April 14, 1980 is hereby made PERMANENT.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

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