

**BAGUIO COUNTRY CLUB CORPORATION, PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION, FIRST DIVISION,
LABOR ARBITER BENIGNO AYSON AND JIMMY SAJONAS,
RESPONDENTS.**

G.R. No. 55624. November 19, 1982

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

On August 18, 1978, the Baguio Country Club Corporation filed with the Ministry of Labor office at Baguio City an application for clearance to terminate the services of respondent Jimmy Sajonas for willful breach of trust, telling lies in an investigation, taking money paid by customers, threatening a fellow employee, committing dishonesty against guests and committing four violations of the club rules and regulations which would constitute valid grounds for dismissal.

On August 28, 1978, Jimmy Sajonas filed his opposition alleging that his dismissal was without justifiable grounds to support it and that it would contravene his constitutional right to security of tenure.

After a notice of investigation was issued, the case was referred to a conciliator who recommended the preventive suspension of the respondent.

The Regional Director suspended Sajonas and indorsed the case for compulsory arbitration to Labor Arbiter Benigno Ayson.

On December 11, 1978, the labor arbiter came out with a decision denying the application for clearance to dismiss Jimmy Sajonas for insufficiency of evidence. The petitioner was ordered to reinstate Sajonas with backwages from the time of suspension up to reinstatement and without loss of seniority rights.

The case was appealed to the National Labor Relations Commission. On January 17, 1980, the Commission rendered a decision dismissing the appeal and affirming the decision of the labor arbiter.

The petitioner charges the public respondents with grave abuse of discretion for having rendered an "unlawful, unconstitutional, and unprecedented decision."

The main issue in this petition is the contention of the petitioner that it was denied due process because its evidence was not considered by both the labor arbiter and the NLRC. The petitioner states that as a result of this ignoring of its evidence, the decisions of the public respondents are contrary to the facts and the applicable law.

A careful consideration of the records of this petition convinces us that there is merit in this petition. The summary procedures used by the public respondents were too summary to satisfy the requirements of justice and fair play.

The decision of the respondent Commission which affirmed the order to reinstate Mr. Sajonas with full

backwages was based on two grounds - First, the evidence available to the labor arbiter when he decided this case was such that the respondent had not sufficiently shown a just cause for the complainant's dismissal. Second, the evidence to support the application for clearance to dismiss the complainant was submitted too late because it was submitted only on appeal.

The respondent Commission committed grave abuse of discretion when it affirmed the irregular and one-sided procedure adopted by the labor arbiter in arriving at his finding of insufficiency of evidence and when it decided to uphold a decision not only contrary to the facts but obviously unfair and unjust.

When the Baguio office of the Ministry of Labor issued as part of the conciliation process a notice of investigation for September 7, 1978 and September 15, 1978, the petitioner Baguio Country Club submitted a position paper accompanied by copies of the application to terminate employment and the sworn statements of witnesses taken during the investigation of the alleged anomalies. Jimmy Sajonas did not submit any position paper. No position paper was served on the petitioner or its counsel. The only document submitted was one with a short two paragraphs comprising the grounds for opposition.

As a result of the conciliator's recommendation, the case was indorsed for arbitration to the labor arbiter. Noting that Mr. Sajonas did not appear at the arbitration proceedings and did not present any position paper but left it to some union members to speak for him and allegedly because Mr. Sajonas had promised to quietly resign, the petitioner merely adopted the position paper filed during the conciliation proceedings.

The irregular procedures used by the labor arbiter started at this point.

The labor arbiter allowed a last minute position paper of respondent Sajonas to be filed and without requiring a copy to be served upon the Baguio Country Club and without affording the latter an opportunity to refute or rebut the contents of the paper, forth-with decided the case.

The public respondents now argue in their comment that "it is of no moment that petitioner was not furnished with a copy of Sajonas' position paper" because as early as the conciliation stage it was already apprised of the position of the employee, having been furnished Sajonas' opposition and that it cannot feign ignorance. This stand of the public respondents is erroneous. Since the case was decided on the basis of position papers, the petitioner had a right to be served a copy of the respondent's position paper admitted and considered by the arbiter and an opportunity to introduce evidence to refute it. As explained by the petitioner, it had been lulled into thinking that because the private respondent had offered to resign and the employer had agreed to forego the prosecution of criminal charges, there would no longer be any complete or full-scale arbitration proceedings. Mr. Sajonas denies that he promised to resign and contends that criminal proceedings were an afterthought to harass the poor laborer. The fact that there were two divergent and clashing allegations before them, not only on this point but also on the principal issues of dishonesty and intimidation of co-employees, the public respondents should have adopted fairer and more accurate methods of ascertaining truth.

As pointed out by the petitioner, "while an administrative tribunal possessed of quasi-judicial powers is free from the rigidity of certain procedural requirements, it does not mean that it can in justiciable cases coming before it entirely ignore or disregard the fundamental and essential requirements of due process." (Serrano v. PSC, 24 SCRA 867; and Singco v. COMELEC, 101 SCRA 420).

The petitioner's position paper, passed upon by the labor arbiter, stated that the petitioner had furnished the oppositor (Jimmy Sajonas) and the ALU (the union of workers in the club) copies of the application to terminate, as well as the investigations of witnesses against Jimmy Sajonas, which distinctly show the infractions committed by oppositor, particularly that of the incident of August 6, 1978 wherein Sajonas was supposed to have

pocketed a cash payment of a customer of the BBC, constituting qualified theft. The petitioner specifically stressed to the arbiter that it was "adopting the investigations which were enclosed with the application to terminate, which are now parts of the record of the Ministry of Labor, as part and parcel of this position paper."

In other words, the petitioner submitted its case on the basis of the complete records of the conciliation proceedings. The position paper was before the arbiter but minus the sworn statements comprising the investigations which formed part of the records of the same labor office.

Inexplicably, the arbiter came out with the conclusion that "there is thus no document nor statement of evidencing value or of evidencing character which we can consider as evidence to support the enumerated violations for which Sajonas is supposed to be dismissed." Instead of calling for the records submitted to the conciliator in the same small Baguio office, the arbiter denied the application for clearance on the ground that all that was before it was a position paper with mere quotations about an investigation conducted by Major Pagala.

The error could have been corrected by the respondent Commission when the petitioner urged that the sworn statements thus ignored by the labor arbiter should be considered on appeal.

In the appeal to the Commission, the petitioner argued that "submitted with this application to terminate are investigations of Erdulfo Pagala on Bernadette Saliquio, Alma Jean Quidasol, Cristina Rico, and Clarissa Adalla."

The respondent Commission may not have committed grave abuse of discretion when it rejected the affidavits of these witnesses, the information for estafa against Jimmy Sajonas filed by the assistant city fiscal, and the resolution of the fiscal's office on the complaint for grave threats, on the ground that "evidence cannot be submitted for the first time on appeal." However, it was a denial of elementary principles of fair play for the Commission not to have ordered the elevation of the entire records of the case with the affidavits earlier submitted as part of the position paper but completely ignored by the labor arbiter. Or at the very least, the case should have been remanded to the labor arbiter consonant with the requirements of administrative due process.

The ever increasing scope of administrative jurisdiction and the statutory grant of expansive powers in the exercise of discretion by administrative agencies illustrate our nation's faith in the administrative process as an efficient and effective mode of public control over sensitive areas of private activity. Because of the specific constitutional mandates on social justice and protection to labor, and the fact that major labor-management controversies are highly intricate and complex, the legislature and executive have reposed uncommon reliance upon what they believe is the expertise, the rational and efficient modes of ascertaining facts, and the unbiased and discerning adjudicative techniques of the Ministry of Labor and Employment and its instrumentalities.

Experience has shown this faith to be justified. In the great majority of petitions for review of decisions from the Ministry of Labor and Employment, we have sustained agency determinations and denied due course to the petitions. However, we have never hesitated to exercise our corrective powers and to reverse labor ministry decisions where the ministry or a labor tribunal like the respondent commission has sustained irregular procedures and through the invocation of summary methods, including rules on appeal, has affirmed an order which tolerates a violation of due process. This Court will reverse or modify an administrative decision where the rights of a party were prejudiced because the administrative findings, conclusions, or decisions are in violation of constitutional provisions; in excess of statutory authority or jurisdiction; made upon irregular procedure; vitiated by fraud, imposition or mistake; not supported by substantial evidence adduced at the hearing or contained in the records or disclosed to the parties; or arbitrary, capricious, or issued with grave abuse of discretion, (*Pajo v. Ago*, 108 Phil 905 *Castaneda v. Court of Appeals*, 26 SCRA 186; *Manuel v. Villena*, 37 SCRA 745; *Asprec v. Itchon*, 16 SCRA 921; *Garcia v. Executive Secretary*, 6 SCRA 1; *Air Manila v. Balatbat*, 38 SCRA 489; *Sichangco v. Board of Commissioners*, 94 SCRA 61).

The instant petition is a timely reminder to labor arbiters and all who wield quasi-judicial power to ever bear in mind that evidence is the means, sanctioned by rules, of ascertaining in a judicial or quasi-judicial proceeding, the truth respecting a matter of fact. (Section 1, Rule 128) The object of evidence is to establish the truth by the use of perceptive and reasoning faculties. (See Martin, Rules of Court, Vol. 5 on Evidence, p. 2 citing Chamberlayne on Trial Evidence and Thayer on Prelim. Treat.) The statutory grant of power to use summary procedures should heighten a concern for due process, for judicial perspectives in administrative decision making, and for maintaining the visions which led to the creation of the administrative office.

From the records which formed part of the position paper submitted to the labor arbiter and those raised on appeal to the respondent commission, the following have been established.

At about 10:30 in the morning of August 6, 1978, Miss Bernadette Saliquio, a waitress at the Baguio Country Club served two glasses of orange juice to the maid and children of a Mrs. Solon. Bartender Jimmy Sajonas pocketed the cash payment of P7.00 for the juice and utilized Chit No. 183100 signed by a Dr. Lodzinski for two bottles of beer to cover up for the order of orange juice which was changed to two beers. In other words, one chit was used twice. Miss Alma Jean Quidasol, checker, who corroborated the testimony of Miss Saliquio, who checks the orders for drinks, and who mentioned an earlier anomaly involving four loaves of raisin bread, was threatened several days later by Sajonas for reporting the incident to management. Miss Cristina Rico, nutritionist, corroborated the utterance of the threat "papatayin." An information for estafa was filed in Criminal Case No. 40292 of the Baguio City Court but the case for grave threats where the office of the City Fiscal "arrived at the indubitable conclusion that the respondent indeed uttered threatening remarks" was dismissed for having prescribed. We agree with the petitioner that the loss of trust and confidence and the wedge driven into the relationship of the private respondent with both management and his co-employees warrant the grant of clearance to terminate his employment. We likewise note the petitioner's statement that Mr. Sajonas has been working as bartender for a hotel in Pangasinan since March, 1979 and was about to be promoted to a hotel in Manila in November, 1979.

WHEREFORE, the instant petition is hereby granted. The decision dated January 17, 1980 of the National Labor Relations Commission affirming the December 11, 1978 decision of the labor arbiter is set aside. The appropriate office of the Ministry of Labor and Employment is ordered to give the petitioner a clearance to terminate the employment of the private respondent.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Vasquez, and Relova, JJ., concur.

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