

MA. LOURDES T. CRUZ AND RIZAL COMMERCIAL BANKING CORPORATION EMPLOYEES ASSOCIATION, PETITIONERS, VS. THE HON. MINISTER OF LABOR AND EMPLOYMENT AND RIZAL COMMERCIAL BANKING CORPO...

G.R. No. 56591. January 17, 1983

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

On November 21, 1979, respondent bank Rizal Commercial Banking Corporation (RCBC) filed an application for clearance to terminate the services of its remittance clerk, Ma. Lourdes Cruz, for gross negligence which was opposed by the latter by filing a complaint for illegal dismissal. On February 11, 1980, the Regional Director resolved the case by lifting petitioner's preventive suspension and directing the bank to reinstate her with full backwages. In support of his order, the Director held that the record is bereft of any substantial proof tending to show that Lourdes Cruz has committed acts of gross negligence as imputed to her.

From the aforementioned order, RCBC appealed on the ground of abuse of discretion on the part of the Director who issued the same. Specifically, the bank terminated the services of petitioner Cruz for the following reasons:

- Some 198 foreign checks received by the bank for the period from February to July 1979 were found missing and verified to have been brought by petitioner to her house;
- On September 2, 1979, sixteen additional checks received by the bank in August, 1979 were found inside petitioner's drawer; and
- She concealed her failure to transmit the checks to respondent's correspondent bank abroad.

The Director's order was modified by Minister Ople in his order of March 10, 1981 by setting aside the award of backwages, ruling that although petitioner violated certain rules of the bank, the degree of her offense does not warrant her outright dismissal from the service, and that it is more attuned to the compassionate approach of administering labor disputes to have her reinstated as a second opportunity to make good in her job. Further, the Minister pointed out that petitioner admitted having committed the said infractions when she was first investigated by the bank authorities, and she reiterated such admission in her complaint and opposition; but this time she claimed to have acted upon orders of her superior officer, although she did not elaborate how she was led to commit the infraction; and that the denial of backwages will serve as a penalty for her infractions and is intended to serve as a fitting lesson and reminder for her future conduct in office.

Petitioner now assails the order of the Minister of Labor and claims that respondent bank utterly failed to adduce any evidence to support its accusation except the unsubstantial findings of a committee which investigated the matter without giving her an opportunity to be heard. She likewise asserts that the bank filed an appeal without furnishing her with a copy of such appeal thus deprived her of the chance to refute the allegations therein; and that contrary to the statement of the Minister of Labor in his questioned order, she never made any admission of the

negligence imputed to her, for she was not even summoned during the investigation.

Her assertion that she was not given the chance to be heard is belied by the records of the case. The minutes^[1] of the investigation showed that the gross negligence imputed to her as remittance clerk was substantiated. Thus—

"Q. How long does it take you to prepare a transmittal?

"A. First, the checks have to be microfilmed, then stamped before the transmittal form is prepared.

"Q. On the average?

"A. Depending on the volume of checks, thirty minutes.

"Q. If you could have been working 30 minutes a day, you should have updated your work?

"A. Yes.

"Q. Since February, did you tell any officer of the branch about these pending items?

"A. No.

"Q. Did you not think that these officers could have helped you about your problem?

"A. No.

"Q. Did you recognize the importance of sending out these checks?

"A. I was trying to mail them actually. Only, the transmittals are not signed yet. I was afraid to tell the officer that there are many checks accumulated in me - kept pending.

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"Q. Before you acquired the microfilming machine in the branch, these checks are sent to H.O. for microfilming?

"A. I sent them to H.O. through our Settling Clerk. I receive them the following day at 9:00 a.m.

"Q. Why did you not have these subject checks microfilmed?

"A. These checks are not yet stamped. Once they are microfilmed, they will be mailed.

"Q. Do you prepare the transmittal before microfilming?

"A. Yes.

"Q. Why did you not do it?

"A. (No answer.)

"Q. Did you realize the necessity of stamping the checks?

"A. So that these checks cannot be negotiated further.

"Q. A check not stamped once lost, can be a direct loss to the Bank, So, why did you not rubber stamp the check?

"A. (No answer)

"Q. Once you receive the check for deposit or encashment, they should be rubber stamped.

"A. Once I receive checks, I bring them immediately to Mr. Evangelista or Rolly Santiago prior to stamping.

"Q. Once it is approved?

"A. I post them to the ledger.

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"Q The rubber stamping is very simple and the microfilming was not done by you and the checks come back to you the following day. These procedures are very simple and we don't see any point why you failed to do this simple step of rubber stamping. Can you give us any explanation on this?

"A. (No Answer)

"Q. Based on these procedures during your period, could your officers have known what was going on even without your specifically telling them so?

"A. Actually in my job, I don't think they will know there are pending checks in me unless there will be an audit."

Petitioner's claim that she was denied due process is likewise without basis. She was given the chance to explain and exonerate herself of the charges during the investigation. It was incumbent upon her to prove her innocence but she failed to do so. Her allegation in her complaint that she acted only in obedience to her superior's order is an obvious afterthought which should not be given credence. She failed to adduce an iota of evidence to support her allegation.

The Court is convinced that petitioner's guilt was substantially established. Nevertheless, We agree with respondent Minister's order of reinstating petitioner without backwages instead of dismissal which may be too drastic. Denial of backwages would sufficiently penalize her for her infractions. The bank officials acted in good faith. They should be exempt from the burden of paying backwages. The good faith of the employer, when clear under the circumstances, may preclude or diminish recovery of backwages.[2] Only employees discriminatorily dismissed are entitled to backpay.[3] Petitioner's act is, unquestionably inimical to the interest of the bank. No one can begrudge the bank for reacting thereto the way it did to protect its holdings. It had only to be tempered as the Minister of Labor judiciously did.

WHEREFORE, the petition for certiorari is hereby dismissed. Without costs.

SO ORDERED.

Makasiar, Aquino, Concepcion Jr. and Guerrero, JJ., concur.

Abad Santos, J., I concur with the observation that the petition could have been summarily dismissed for lack of merit and for raising personal issues.

Escolin, J., reserves his vote.

[1] pp. 39-41, Original Records.

[2] Findlay Millar Timber Co. vs. PLASLU, 6 SCRA 226.

[3] Cromwell Comm. Employees & Laborers Union vs. CIR, 13 SCRA 259.

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