

INTERNATIONAL HARDWOOD AND VENEER CO. OF THE PHILIPPINES, PETITIONER, VS. HON. VICENTE LEOGARDO, IN HIS CAPACITY AS DEPUTY MINISTER, MINISTRY OF LABOR & EMPLOYMENT AND SATURNINO...

G.R. No. 57429. October 28, 1982

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The June 11, 1981 order of the Deputy Minister, Ministry of Labor and Employment, which directed the reinstatement with backwages of private respondent Saturnino Atentar, is challenged in this petition as having been issued with grave abuse of discretion tantamount to lack of jurisdiction.

Saturnino Atentar started working for International Hardwood and Veneer Company of the Philippines (Interwood) on March 23, 1975 as a road construction laborer. On March 17, 1976, he was promoted to motor banca helper assigned to operate motor bancas at the Interwood log pond in Barrio Sabang, Mauban, Quezon. He was also given confidential assignments to assist a team of company security personnel and Philippine constabulary soldiers patrolling the area to curb the smuggling of illegally cut logs from the petitioner's forest concessions.

On November 21, 1977, the petitioner applied for clearance to terminate the services of Mr. Atentar (with two other employees) for serious offenses and violation of company rules and regulations including (a) the use of company property for personal use and gain without authority; (b) dishonesty; (c) serious misconduct; and (d) fraud and wilful breach of trust.

On July 11, 1979, the Regional Director of the Ministry of Labor and Employment issued an order, the dispositive portion of which reads:

"WHEREFORE, in the light of the foregoing, respondent is hereby ordered to reinstate complainant immediately with full backwages from August 8, 1978 when the complaint was filed up to actual date of reinstatement. Consequently, the application for clearance for his termination is hereby Denied. As regards the other charges particularly non-payment of 13th month pay and accrued sick leaves, the records showed that the company is exempt from complying with PD 851 only for 1977. It is therefore liable for the years 1975 and 1976, hence, it is hereby ordered to pay the 13th month pay of complainant for these years. On the other hand, the claim for accrued vacation leave is hereby dismissed it having been shown that the same has already been paid."

Acting on an appeal filed by Interwood, the Deputy Minister of labor issued on June 11, 1981 the order now challenged in this petition. The dispositive portion reads:

"WHEREFORE, the Order of this Office dated 27 February 1981 is hereby affirmed subject to the modification that the respondent is declared exempted from paying the complainant of the 13th month pay for 1975 and 1976."

The grounds for the petitioner's application for clearance are summarized in the order of the Regional Director as follows:

"The records show that applicant company anchored the charge of using company property for personal use on the statements of Roden Laureles, a former security guard until June 1977, to the effect that he had seen complainant herein using the company boat. There was no declaration by said affiant however, whether he has knowledge of whether complainant did not secure a prior permission and authority, when the latter used the boat or whether the purpose for which it was used was personal in nature or for the benefit of the company. These are the more significant questions that have not been clarified by the respondent company in throwing the accusations against complainant herein.

"On the charge of dishonesty, the respondent alleged that complainant herein was apprehended while in the act of towing a piece of log from its log pond to Mauban Insular Sawmill, which is in violation of the company's rules and regulations on theft or appropriation of company property. In support of this accusation, the company submitted the affidavit of Reynaldo Manuba dated September 23, 1978, another banca operator of the company.

"And for the last two grounds which are serious misconduct and fraud or wilfull breach of trust apparently, the company has as its basis the participation and collusion by complainant herein and Oscar Joven, a log scaler in doubly scaling logs thereby doubly charging the company and sharing the proceeds therefrom between them. Thus, the charge of serious misconduct, breach of trust and fraud which infrac-tions were also touched by Manuba and Laureles in their declarations."

This petition may be resolved on the issue of dishonesty alone.

Atentar was a motor banca operator assigned to the Mauban log pond of Interwood. He was given, in addition to his regular duties, the confidential assignment of helping an anti-smuggling team of security personnel patrol the environs of the company log pond. Atentar was caught in the very act he was supposed to curb or guard against. Security personnel apprehended Atentar while he was towing a pilfered log from the Interwood log pond to the Mauban Insular Sawmill.

There is no question that the theft of logs by an employee who operates the motor bancas used in towing those logs and who is given the extra assignment of helping security personnel patrol the waters in and around the log pond against log thieves is valid reason for dismissal by his employer. The act of pilferage violated both Article 283 of the Labor Code and the employer's company rules and regulations, which provide:

"ART. 283 - Termination by employer - An employer may terminate an employment without a definite period for any of the following just causes:

“(a) xxxx

“(b) serious misconduct or wilful disobedience by the employee of the orders of his employer or representative in connection with his work;

“(c) xxxx

“(d) fraud or wilful breach by the employee of the trust reposed in him by his employer or representative;

“(e) xxxx

“(f) other causes analogous to the foregoing.

"RULE II - THEFT OR APPROPRIATION OF COMPANY PROPERTY - Do not take out or appropriate for your own use any company property, material, record or equipment without written permission or consent of

the proper authority. Violation of this rule will subject the guilty party to immediate dismissal and criminal prosecution."

It is an established principle that an employer cannot be compelled to continue in employment an employee guilty of acts inimical to the interest of the employer and justifying loss of confidence in him. (Manila Trading and Supply Co. v. Manila Trading Laborer's Association, 83 Phil. 297; Galsim v. Philippine National Bank, 29 SCRA 293; PECO v. PECO Employees Union, 107 Phil. 1003; Nevans v. Court of Industrial Relations, 23 SCRA 1321; Gas Corporation of the Philippines v. Inciong, 93 SCRA 652.)

The respondents argue that Interwood failed to submit the required quantum of evidence to support its application for clearance to terminate the private respondent's employment. The respondents' principal contention is that this Court's corrective powers do not go so far as to evaluate the sufficiency of the evidence upon which the Deputy Minister and the Regional Director based their determinations but are limited to issues of jurisdiction or grave abuse of discretion. (Scott v. Inciong, 68 SCRA 473; San Miguel Corporation v. Secretary of Labor, 64 SCRA 56).

The findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but even finality. This is especially true of determinations made by the Ministry of Labor and Employment which implements not only statutory functions and duties but the constitutional mandate to the State to afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations between workers and employers and to assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. (Article II, Section 9, Constitution).

Our respect for the findings and conclusions of the Ministry of Labor and Employment and our according them a measure of finality are, however, subject to well-known exceptions which we reiterate because of the number of adjudications of the labor ministry and labor tribunals elevated to us for review. Where there has been a failure to correctly interpret and apply the provisions of law applicable to the facts of a particular case or where factual findings are not supported by substantial evidence, or where there is grave abuse of discretion or want or excess of jurisdiction, we assert our power to review and set aside.

The private respondent in this case was caught red-handed towing a stolen log with one of the motor bancas he operates from the employer's log pond to a local sawmill. The respondent labor officials found the affidavits of security guard Roden Laureles and banca operator Reynaldo Manuba as non-substantial or insufficient to sustain the acts of dishonesty and wilful breach of trust because they were executed only on September 8, 1978 whereas the dismissals were effected on November 21, 1977. They, therefore, discredited the affidavits. The public respondents overlooked the fact that the affidavits (the Ministry of Labor and Employment relies heavily on affidavits and counter-affidavits for its determinations) refer to acts committed before November 21, 1977.

The records show that the police blotter at the Mauban Police Station has the following entry at page 166, series of 1977, line No. 28, dated September 10, 1977:

' T H E F T '

Suspect : Saturnino Atentar - motor operator

(Interwood Sawmill)

Complainant : Interwood Sawmill (Management)

Subject : One log coming from logpond of Interwood Sawmill

Place & Date : Interwood Compound 10 Sept. '77

Time : At 9:00 P.M. more or less

Remarks : Said Suspect apprehend one Security Guard, Reynaldo Manuba."

The affidavits were executed because of the complaint filed by respondent Saturnino Atentar with the Regional Office at San Pablo City of the Ministry of Labor and Employment. Naturally, the affidavits could not have been executed in 1977 simultaneously with the acts described in the affidavits as the need for them arose only a year later.

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.

There are other issues raised in this petition including the alleged abolition of jobs at the Mauban, Quezon operations of Interwood because of President Marcos' orders to stop logging operations in the area but there is no need to pass upon them.

WHEREFORE, the order dated June 11, 1981 of the Deputy Minister of Labor and Employment and the order dated July 11, 1979 of the Regional Director of Region IV-A of the Ministry of Labor and Employment are hereby set aside. The respondent public officials are directed to issue the clearance to terminate the services of the private respondent. The restraining order issued on October 26, 1981 is made permanent. No costs.

SO ORDERED.

Melencio-Herrera, (Acting Chairman), Plana, Vasquez, and Relova, JJ., concur.
Teehankee, J., (Chairman), on official leave.

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