

**FILIPINAS GOLF & COUNTRY CLUB, INC., PETITIONER, VS.
PHILIPPINE TRANSPORT & GENERAL WORKERS
ORGAN-IZATION, GREGORIO GERODIAS, AND HON. BLAS F. OPLE,
RESPONDENTS.**

G.R. No. 57460. March 29, 1982

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

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In an order dated March 7, 1979, the Acting Regional Director of the National Capital Region granted petitioner's request for clearance to terminate the employment of respondent Gregorio Gerodias as greens mower-operator and dismissed his opposition upon his finding that he had previously been meted out a one-week suspension for having left his work during his hour of duty without permission, and that "there exists a valid cause for termination. Complainant's failure to obey the lawful order for new assignment constitutes gross insubordination and inferentially a disrespect to a company superior officer. "

Upon appeal, however, respondent Minister of Labor is-sued his Order of April 10, 1981 setting aside the clearance and "directing the respondent to reinstate complainant to his former position without loss of seniority rights and with full back wages from the time of his dismissal up to the date of his actual reinstatement." Respondent Minister found that the facts of record "do not show clear-ly" the alleged "abandonment of work and insubordination," reasoning that "(I)nsubordination also connotes an intentional defiance of an order by one's superior, an act of refusal to follow with knowledge, freedom and voluntariness. In the instant case, complainant's failure to perform what was called upon him was due to his desire to finish a previous order also given by his superior. Gerodias could not report immediately to the 'practice green' since he wanted to finish his work at the 'sand trap' as originally assigned to him by his superiors. Gerodias was exercising his discretion in opting to remain, in the meanwhile, at his original place of assignment. Certainly, that act does not amount to insubordination as to constitute a lawful cause for his dismissal."

Hence the present petition.

Upon consideration of the separate comments filed on behalf of private and public respondents, as well as petitioner's reply thereto, and the constitutional injunction to afford protection to labor, the Court does not perceive any solid ground to set aside respondent Minister's questioned Order of reinstatement as constituting an act of grave abuse of discretion, although private respondent must be put on notice that one more serious act of insubordination and disrespect to express in-structions of the management (which had been faithfully followed by nine other workers of petitioner who received the same instructions) will mean forfeiture of his right to employment with petitioner. However, considering that the request for clearance to terminate his employment had previously been granted per the Acting Regional Director's order of March 7, 1979 and that such order was not reversed until the is-suance of respondent Minister's Order of April 10, 1981 or after the lapse of twenty-five (25)

months, the Court, taking into consideration that the total period of thirty-six (36) months up to now shall have lapsed, modifies the award of back wages by reducing the same to an award of eighteen (18) months back wages.

ACCORDINGLY, the appealed Order of respondent Minister is affirmed with the modification that the award of back wages is hereby reduced to the equivalent of eighteen (18) months' wages, it being understood that petitioner shall reinstate private respondent to his former position within five (5) days from notice hereof, failing which private respondent shall be entitled to receive the equivalent of his wages thereafter until his actual reinstatement.

This decision is immediately executory.

SO ORDERED.

Makasiar, Fernandez, Melencio-Herrera, and Plana, JJ., concur. Guerrero, J., no part.

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