

LUIS ESTRADA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (2ND DIVISION) AND DESIGNS LIGNA INCORPORATED, RESPONDENTS.

G.R. No. 57735. March 19, 1982

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

The Court grants the petition and as prayed for also by the Office of the Solicitor General, sets aside the questioned decision of May 14, 1981 of respondent commission which dismissed petitioner's appeal on the basis of a mere technicality (of petitioner's failure to furnish respondent-employer with a copy of his memorandum of appeal), and reinstates its earlier decision of March 10, 1981 for reinstatement of petitioner-employee to his position with respondent-employer.

Respondent commission's original decision of March 10, 1981 reversed the labor arbiter's decision of March 6, 1980 which granted respondent-employer's application for clearance to dismiss petitioner from his employment of about seven (7) years tenure as a "finisher" of furniture (for alleged "chronic tardiness"), solely on the basis of petitioner's alleged "wanton apathy and indifference to his cause" notwithstanding said labor arbiter's own finding that the employer's evidence "is weak and the facts of the case do not justify dismissal." Respondent commission ordered respondent-employer "to reinstate oppositor to his former or substantially equivalent position without backwages within ten (10) days from receipt of this Decision," ruling as follows:

"The appeal is grounded on 1) grave abuse of discretion and 2) the decision is not supported by law and evidence. In arguing his case, oppositor alleges that the Labor Arbiter below erred in granting the clearance to terminate his services solely on alleged indifference and wanton apathy attendant in the prosecution of his case. Oppositor maintains that his failure to attend the hearings was due to the negligence of the counsel provided by the Union; that in several occasions he waited for a long time to talk to his counsel but to no avail; that he was not informed of the scheduled hearings; and that it is unfair to grant the clearance to terminate oppositor's services because of the failure of the counsel to attend the hearings.

"We have gone carefully over the records of this case and we rule for the reversal of the decision appealed from.

"We quote hereunder the uncontroverted findings of the Labor Arbiter below, and consider the same as our own:

'We find Luis Estrada's tardiness not a sufficient cause for dismissal. He was only late or tardy for six (6) times on May 5 and 15, 1979; on June 5, 26, 27 and June 30, 1979. Certainly such tardiness is not chronic and on the hypothesis that it is chronic, the same does not merit the supreme penalty of dismissal considering that Estrada has been in the service for 7 years.'

Indeed we rule that the penalty of dismissal for the tardiness committed is too harsh. We find suspension a more appropriate penalty considering the facts attendant to this case and we vote for reinstatement without backwages,

the period by which oppositor is out of service be considered as penalty of suspension for his tardiness.

"WHEREFORE, decision appealed from is here-by Reversed and the application for clearance Denied."

On respondent-employer's motion for reconsideration, however, respondent commission rendered another decision under date of May 14, 1981 (setting aside its original decision of March 10, 1981 for petitioner's reinstatement) and without discussing the merits of the case, it sustained the sole ground of procedural technicality raised of the employer's not having been furnished with copy of petitioner's memorandum of appeal (contrary to the requirements of Article 223 of the New Labor Code and section 9, Rule XIII of its implementing Rules and Regulations) and dismissed petitioner's appeal "for failure to meet the requirement of a perfected appeal" - notwithstanding the commission's own finding of the lack of sufficient cause to justify petitioner's dismissal from employment in its original decision of March 10, 1981.

We find the Solicitor General's stand in their comment to be well-taken and in accordance with the constitutional injunction to afford protection to labor and the workers' right of security of tenure,[1]as follows:

"Considering that there is no basis for the dismissal of petitioner, it would be inconsistent with the requirement of social justice to terminate his employment on mere grounds of technicality.

X X X

Neither can private respondent validly complain that it has been denied its right to due process by having been allegedly deprived of the opportunity to answer petitioner's appeal on account of the latter's failure to furnish the former with a copy of his memorandum of appeal. Since the entire record of the case on appeal is open for review by the NLRC, the absence of an answer or opposition to the appeal would not really have a significant bearing on the adjudication of the case, as would otherwise perhaps constitute a denial of private respondent's right to due process. Besides, private respondent had already the opportunity to answer petitioner's appeal when he filed a motion for reconsideration of the earlier decision of the NLRC. Significantly, however, said respondent never touched on the merits of the case in his aforementioned motion for reconsideration. Instead, it relied solely on technicality to oppose petitioner's appeal which thereby reasonably creates the impression that its case is weak as in fact it is."[2]

As stated by the Chief Justice for the Court in *Meracap vs. International Ceramics Mfg. Co., Inc.*, "for the strictly juridical standpoint, it cannot be too strongly stressed, to follow Davis in his masterly work, *Discretionary Justice*, that where a decision may be made to rest on informed judgment rather than rigid rules, all the equities of the case must be accorded their due weight. Finally, labor law determinations, to quote from Bultmann, should be not only *secundum rationem* but also *secundum caritatem*."[3]

In *Phil. Blooming Mills Employees Organization vs. Phil. Blooming Mills Co., Inc.*,[4] the Court through Mr. Justice Makasiar stressed the dominance and superiority of constitutional rights over statutes and subordinate implementing rules and regulations, thus: "(D)oes the mere fact that the motion for reconsideration was filed two (2) days late defeat the rights of the petitioning employees? Or more directly and concretely, does the inadvertent omission to comply with a mere Court of Industrial Relations procedural rule governing the period for filing a motion for reconsideration or appeal in labor cases, promulgated pursuant to a legislative delegation, prevail over constitutional rights? The answer should be obvious in the light of the aforesaid cases. To accord supremacy to the foregoing rules of the Court of Industrial Relations over basic human rights sheltered by the Constitution, is not only incompatible with the basic tenet of constitutional government that the Constitution is superior to any statute or subordinate rules and regulations, but also does violence to natural reason and logic."

Respondent commission's original decision of March 10, 1981, which is hereby reinstated as the correct decision,

ordered the reinstatement within ten (10) days of petitioner to his former position without backwages, with the said period (of almost two years from June 11, 1979 to March 10, 1981) when he was out of employment considered as penalty for his tardiness." Even this penalty of suspension may be considered as quite harsh, amounting to several months pay lost per day that petitioner was tardy. Petitioner, at the very least, should therefore be entitled to backwages from the date of promulgation of said decision on March 10, 1981 until his actual reinstatement.

ACCORDINGLY, respondent commission's decision of May 14, 1981 is hereby set aside and its earlier decision of March 10, 1981 is hereby rein-stated and affirmed, with the clarification that respondent-employer is ordered to reinstate petitioner to his former or substantially equivalent position without loss of seniority and other privileges within ten (10) days from notice hereof and to pay petitioner backwages from March 10, 1981 until his actual reinstatement. This decision is immediately executory.

SO ORDERED.

Makasiar, Fernandez, Guerrero, Melencio-Herrera, and Plana, JJ., concur.

[*] Composed of Commissioners Ricardo C. Castro, presiding, and Cecilio T. Seno and Federico O. Borromeo.

[1] Article III, section 9, 1973 Constitution.

[2] Comment dated November 19, 1981 filed by Asst. Solicitors General Reynato S. Puno and Ramon A. Barcelona and Solicitor Franklin S. Farolan.

[3] 92 SCRA 412, 417 (1979).

[4] 51 SCRA 189 (1973).

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