

SAN MIGUEL CORPORATION, PETITIONER, VS. DEPUTY MINISTER OF LABOR AND EMPLOYMENT, ASSISTANT REGIONAL DIRECTOR, DANTE ARDEVILLA, RODOLFO JOLINGAN, MARIANO GOITI, JR., AND JESUS D....

G.R. No. 58927. October 27, 1986

Ponente: PARAS, J.

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PARAS, J.:

These are two petitions for certiorari both seeking the annulment of the Order of the Deputy Minister of Labor, dated November 12, 1981 in Rodolfo Jolingán, et al. v. San Miguel Corporation (SMC), Case No. LRD SL-5890-79, the dispositive portion of which reads:

"WHEREFORE, the Order appealed from is hereby affirmed with modification in that respondent San Miguel Corporation is ordered to reinstate Mariano Goiti Jr. and Jesus D. Fuentes, Jr. to their former positions but without backwages.

"No further motion of this nature shall be entertained."

In L-58927, petitioner San Miguel Corporation prays among others that the complaint of Rodolfo Jolingán, Mariano Goiti and Jesus Fuentes be dismissed and the application for clearance to terminate their services be granted while in L-59870, petitioner-employees, Rodolfo Jolingán, et al. pray that they be reinstated to their former position with full backwages.

Rodolfo L. Jolingán was salesman-in-charge, Jesus D. Fuentes, Jr. driver/helper and acting salesman and Mariano Goiti, Jr. salesman, were all employees of the San Miguel Corporation assigned to the Bacolod Beer Region, Beer Marketing Division, specifically the Cadiz Sales Office. They had been with the San Miguel Corporation for sixteen, six, and ten and a half years, respectively. (Order of the Deputy Minister of Labor and Employment dated May 24, 1981, L-58927, Rollo, p. 214).

On July 6, 1979 they were accused of having misappropriated funds belonging to the employer company by their failure to fully remit their collections from the dealers. After investigation where petitioner-employees admitted that they misappropriated the shortages in question for their own personal benefits (L-58927, Rollo pp. 45-48), Jolingán and Goiti, Jr. were placed under preventive suspension effective September 24, 1979 and Fuentes, Jr. effective September 25, 1979. (Order of Deputy Minister of Labor and Employment, L-58927, Rollo p. 214).

Jolingán, Fuentes and Goiti filed an action with the Bacolod District Office of the Ministry of Labor on October 1, 1979, later amended on October 15, 1979 against San Miguel Corporation for arbitrary dismissal, alleging that on September 24 and 25, 1979 (Rollo p. 40) they were arbitrarily dismissed (not suspended) from their jobs without clearance to terminate their services on the part of San Miguel Corporation, application for clearance was filed only on October 9, 1979. Finding the action of employer Co. as violative of the clearance requirement, Asst. Regional Director Dante G. Ardinilla of the Bacolod District Office, Ministry of Labor, ordered on February 12,

1980 the reinstatement of complainants with full backwages including accrued benefits and denied the application for clearance to terminate their services. (L-58927, Rollo pp. 58-59).

After its motion for reconsideration was denied by the Bacolod District Office (Order of the Asst. Director, dated April 9, 1980, L-58927, Rollo, p. 210), San Miguel Corporation filed its appeal with the Ministry of Labor and Employment, contending that the Asst. Regional Director acted with grave abuse of discretion in directing the reinstatement of Jolingan, Fuentes and Goiti with full backwages (L-58927 Rollo, p. 72). The Ministry of Labor and Employment found among others, that complainants-employees were under preventive suspension, and had not been dismissed, as alleged; that the appeal was meritorious and that the charges against Jolingan, Fuentes and Goiti by San Miguel Corporation for misappropriation of funds were established by documents on the record. The Order reads:

"On June 8, 1979, the amounts remitted to the respondent by complainant Rodolfo Jolingan were lacking the amount of P316.00. On June 28, 1979 he failed again to remit to the respondent the amount of P948.00 that he received from the dealers as money value of 60 cases of beer empties. It was only on July 3, 1979 that Jolingan paid the respondent his shortages.

Mariano Goiti, Jr., was likewise short in his remittance to the respondent in the sum of P2,876.50. Jesus Fuentes, Jr. was also deficient in his remittance to the respondent on July 17, 1979, and July 18, 1979 in the aggregate amount of P1,200.80.

Unlike Rodolfo Jolingan, Mariano Goiti, Jr. and Fuentes, Jr., did not repay respondent their remittance deficiencies."

Its Order dated May 24, 1981 (L-58927 Rollo, p. 214) states:

"WHEREFORE, the Order appealed from is hereby affirmed only insofar as Rodolfo Jolingan is concerned but with modification in that respondent San Miguel Corporation is directed to reinstate Rodolfo Jolingan to his former position but without backwages.

As to Mariano Goiti, Jr. and Jesus Fuentes, Jr., the appealed Order is hereby set aside and a new one is entered, granting the respondent's application for clearance to terminate their services.

The claims for damages are hereby dismissed for lack of merit."

Dissatisfied with the Ministry's decision, Fuentes and Goiti filed a motion for reconsideration, seeking the same relief as that afforded Jolingan plus backwages and commissions, claiming that they also paid San Miguel Corporation the amount corresponding to their remittance deficiencies and that by receiving payment thereof the Corporation had condoned their acts (Motion for Reconsideration dated July 6, 1981, L-58927 Rollo, p. 89). The Ministry of Labor and Employment decided that Goiti and Fuentes were similarly situated as Jolingan and should also be given another chance to work with San Miguel Corporation. Thus the questioned Order of November 12, 1981.

Both parties filed their respective petitions for certiorari: San Miguel Corporation in G.R. No. L-58927 which was filed on December 2, 1981 (L-58927 Rollo, p. 2), and Jolingan, Goiti and Fuentes on March 11, 1982 in G.R. No. L-59870 (L-59870 Rollo, p. 3). On February 18, 1982, public respondent in L-58927 filed his Comment (Rollo, p. 110) and on March 5, 1982, private respondents in the same case, filed their Comment (Rollo, p. 120). Petitioner Corporation filed its Reply on May 18, 1982 with public respondent filing his Rejoinder on August 10, 1982 and the private respondents, on August 26, 1982.

In G.R. No. L-59870, public respondent filed his Comment on April 22, 1982 (L-59870 Rollo, p. 98) and private respondent on April 30, 1982 (L-59870 Rollo, p. 109).

Both Cases were consolidated in the resolution of the First Division dated September 20, 1982, the Court giving due course to both Petitions which involve the same subject decision of respondent Minister and requiring all parties to submit simultaneous memoranda within thirty days from notice (L-58927 Rollo, p. 176).

On October 20, 1982 public respondent filed his Memorandum in G.R. No. L-58927 (L-58927 Rollo, p. 177). San Miguel Corporation filed its Consolidated Memorandum in two petitions on December 9, 1982 (L-58927 Rollo, p. 196) while petitioners in G.R. No. L-59870 filed their Memorandum on January 10, 1983 (L-59870 Rollo, p. 168) and public respondent on October 25, 1982 (L-59870 Rollo, p. 120).

The following errors are assigned:

In L-58927 (Rollo, p. 8):

- The Deputy Minister gravely abused his discretion and acted in excess of his jurisdiction in ordering the reinstatement of private respondents inspite of the finding that the latter misappropriated company funds and breached the trust and confidence reposed upon them by their employer.
- The Deputy Minister committed a grave abuse of discretion in arbitrarily holding that private respondents are entitled to be given another chance to work with petitioner because such conclusion is contrary to law and prevailing jurisprudence.
- IThe Deputy Minister committed a grave abuse of discretion in affording private respondents further administrative remedy while denying the same to the petitioner thus depriving the latter of equal protection.

In L-59870 (Rollo, p. 6):

- The Deputy Minister gravely abused his discretion and acted in excess of his jurisdiction in ordering reinstatement of the petitioners without back-wages when it is clearly mandated by law.

The crucial issue in both cases is whether or not an employer can be compelled to continue employing persons on whom it has lost its trust and confidence.

It cannot be denied that Respondent Deputy Minister of Labor and employment found Rodolfo Jolingán, Mariano Goiti, Jr. and Jesus Fuentes, Jr., guilty of misappropriating funds belonging to their employer, the San Miguel Corporation (Order of the Deputy Minister of Labor and Employment, dated May 25, 1981, Rollo, p. 214), fully substantiated by evidence. The three suspended employees admitted having taken parts of remittances of dealers for their personal use, in their individual statements taken by the investigator, District Sales Supervisor Manuel Chu on July 9, 1969 with respect to Goiti (Rollo, p. 55), and on July 10, 1979 with respect to Jolingán (Rollo, p. 51). Fuentes executed an affidavit on July 24, 1979 confessing his misdeed, subscribed and sworn to by him before the City Fiscal of Cadiz, on the same date (Rollo, p. 57). Although they claim that they were forced and coerced to sign their confessions against their will, (L-59827, rollo p. 23) all three of them paid their individual shortages to the Company (Opposition to Motion for Reconsideration, par. 4, Rollo, p. 98) showing that the misappropriations complained of are true. It is likewise evident that the employees have been guilty of a breach of trust, a sufficient basis for management's loss of confidence in the three employees.

It has been repeatedly held by this Court in a long line of decisions that where an employee has been guilty of breach of trust or his employer has ample reason to distrust him, a labor tribunal cannot deny the employer the authority to dismiss the employee (National Labor Union, Inc. v. Standard Vacuum Oil Company, 73 Phil. 279; Reynolds Philippines Corporation v. Eslava, 137 SCRA 259, 265; Metro Drug Corporation v. National Labor Relations Commission, et al., G.R. No. L-72248, July 22, 1986). Loss of trust and confidence by management justifies grant of clearance to dismiss (Mamerto v. Inciong, 118 SCRA 265). Indeed, it is an established principle

that an employer cannot be compelled to continue in employment an employee guilty of acts inimical to the interests of the employer and justifying loss of confidence in him (International Hardwood and Veneer Co. of the Philippines v. Leogardo, 117 SCRA 967; Engineering Equipment, Inc. v. National Labor Relations Commission, 133 SCRA 752).

Furthermore, proof beyond reasonable doubt of the employee's misconduct is not even required, it being sufficient that there is some basis for the same or that the employer has reasonable ground to believe that the employee is responsible for the misconduct and his participation therein renders him unworthy of the trust and confidence demanded of his position (Nevans v. Court of Industrial Relations, 23 SCRA 1321; Central Textile Mills, Inc. v. National Labor Relations Commission 90 SCRA 9; San Miguel Corporation v. National Labor Relations Commission, 128 SCRA 180; Villadolid v. Inciong, 121 SCRA 205; Dole Philippines Inc. v. National Labor Relations Commission, 123 SCRA 673).

There is merit in San Miguel Corporation's contention that misappropriation of company funds creates not only a civil liability but a criminal one as well.

Well known is the rule that in malversation of funds or estafa, the fact that the shortage was fully restituted does not exempt respondents from responsibility. (Office of the Court Administrator v. Soriano, 136 SCRA 461-462; May 16, 1985). In the case at bar, payment made by the erring employees cannot obliterate the betrayal of trust and confidence in their positions where honesty and integrity are the primary considerations.

As to the fact that allegedly this is the first offense of Jolingán, this appears to be contrary to the findings of fact of the Deputy Minister himself and to the evidence on record. In the Order of November 12, 1981 of the Deputy Minister of Labor, it is stated that the documents on record establish the commission more than once by the erring employees of the wrongful acts charged. (L-58927, Rollo pp. 214-215). Jolingán misappropriated company funds not once but twice; Goiti confessed having defrauded the company eight times, while Fuentes in his affidavit admitted having defrauded the Company twice (L-58927 Rollo pp. 14-15); all in all showing an emerging pattern of deception against the employer, to say the least, too disturbing to ignore.

Note that in the recent case of San Miguel Corporation v. National Labor Relations Commission, et al. (G.R. No.70177, June 25, 1986) where the facts and circumstances are almost identical to the case at bar and where the Court found that public respondent committed a grave abuse of discretion in sustaining the view of the Labor Arbiter that respondent employee should be reinstated, We upheld the right of the employer to dismiss an employee whose continuance in the service is inimical to the employer's interest.

It would indeed be unfair to require San Miguel Corporation to reinstate the employees concerned; nonetheless, considering all the circumstances of the case and their years of service to the corporation, the latter should award them separation pay.

PREMISES CONSIDERED, the resolution of the Deputy Minister of Labor in LRD Case No. SI-5890-79 dated November 12, 1981, is hereby SET ASIDE; and a new one is hereby rendered granting San Miguel Corporation's application for clearance to terminate the employment of said employees but ordering it to grant separation pay to said employees.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay and Gutierrez, Jr., JJ., concur.

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