

POLYMEDIC GENERAL HOSPITAL, PETITIONER, VS. HON. NATIONAL LABOR RELATIONS COMMISSION AND RICARDO PASADILLA, RESPONDENTS.

G.R. No. 64190. January 31, 1985

Ponente: RELOVA, J.

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RELOVA, J.:

The petition seeks to set aside the resolution, dated December 20, 1982, of respondent National Labor Relations Commission (NLRC) which affirmed the decision, dated January 19, 1982, of the Labor Arbiter, for having been issued with grave abuse of discretion amounting to lack of jurisdiction.

Private respondent Ricardo Pasadilla was employed by petitioner as janitor since August 1979, with a monthly salary of P380.00, plus allowance. On August 6, 1981, petitioner filed a clearance application with the Ministry of Labor and Employment (MOLE) to terminate Pasadilla's employment on the ground that he was caught twice sleeping while on duty and once for abandoning his post. Meanwhile, he was placed under preventive suspension.

Private respondent opposed the clearance application and filed a complaint for illegal dismissal.

The two (2) cases were heard jointly for the first time on December 11, 1981 when Pasadilla furnished petitioner's representative with a copy of his position paper, affidavit and documentary evidence. On the other hand, petitioner failed to submit its position paper, nor did anyone appear for it at the hearing in the morning of December 18, 1981. As a consequence, private respondent was allowed to present his evidence ex-parte wherein the following facts were gathered by the Labor Arbiter:

"Complainant was employed as a janitor receiving a monthly salary of P380.00 plus living allowance since August 1979. On July 30, 1981, his salary was withheld by the cashier and the latter advised him to see the assistant head of the personnel department, Alex Gonzales, who informed him that he is subject for termination. Mr. Gonzales further told him to tender his resignation so he will not be considered terminated and he (Gonzales) ordered his immediate superior, Mrs. Gloria Flora, to make the resignation letter. Mrs. Flora handed to him the handwritten resignation and have the same copied by him (complainant) and he afterwards submitted the said resignation paper to Alex Gonzales. Believing the words of Alex Gonzales, that upon submission of the resignation he can work, he reported for work on Monday after July 31, 1981, which is a Friday, but was informed by Mr. Gonzales instead that he can no longer work. He then asked from Mr. Gonzales for his resignation paper and proceeded home. At the gate of the hospital, he was stopped by the Security Guard who at the same time grabbed his bag. Mr. Gonzales arrived and in the presence of the security guard advised him to return the resignation paper, which he refused and instead tore the same into pieces.

"Herein complainant denied having committed any negligence of duties, gross misconduct, and violations of hospital rules and regulations. The charge that he was caught sleeping on July 29, 1981, while on duty was not true, since at the time he was cleaning Ward 702 all the beds therein were placed by him against the wall and he was then standing, leaning also on the wall and therefore, it is not possible for him to be sleep-ing.

"During the period of his employment with respondent, he was not reprimanded and/or suspended for any offense committed against respondent and/or violation of its company rules and regulations." (pp. 21-22, Rollo)

In the afternoon of December 18, 1981, petitioner's counsel appeared before the Labor Arbiter and requested an extension up to January 3, 1982 within which to submit its evidence. When no position paper was filed up to January 15, 1982, the Labor Arbiter rendered a decision, dated January 19, 1982, ordering the reinstatement of Ricardo Pasadilla as janitor of petitioner Polymedic General Hospital, with back wages and without loss of seniority rights and other benefits.

On appeal to respondent Commission, petitioner assailed the decision of the Labor Arbiter on the ground that the same was based on insufficient evidence of private respondent. Notwithstanding the assertion, respondent Commission affirmed the appealed decision and dismissed petitioner's appeal.

Hence, instant petition.

Petitioner claims that respondent Commission erred in affirming the decision, dated January 19, 1982, of Labor Arbiter Ceferina J. Diosana, pointing out that the evidence of private respondent is not substantial to support his allegations that the dismissal was illegal. It further argues that the testimony of private respondent cannot be admitted in evidence considering that the same is biased and self-serving.

As already stated above, petitioner failed to submit evidence to support its application for clearance to terminate private respondent and/or to rebut the latter's evidence proving his case. Nonetheless, We have gone over the subsequently filed position paper of petitioner and found that while petitioner speaks of records allegedly showing that private respondent has been found to have committed in two (2) previous occasions, the offenses of sleeping on duty and abandonment, it did not submit or present said records to bolster its version. As stressed out by petitioner, the burden of proof rests on the party asserting the affirmative. Private respondent had already proved that he has not committed those offenses charged against him and that his termination was effected without the required clearance from the Ministry of Labor. On the latter ground, We have to quote the findings of the Labor Arbiter which were affirmed by the respondent Commission, as follows:

"An examination of the clearance application (xerox copy) shows that this was not filed before the Ministry of Labor, as no file number appeared to have been placed therein and the same appears to have been notarized only on the 5th of August 1981. x x x (p. 23, Rollo)

It must be borne in mind that the basic principle in termination cases is that the burden of proof rests upon the employer to show that the dismissal is for just cause and failure to do so would necessarily mean that the dismissal is not justified and, therefore the employee is entitled to be reinstated in accordance with the mandate of Article 280 of the New Labor Code, which reads:

"ART. 280. Security of tenure. - In cases of regular employment, the employer shall not terminate the services of an employee except for a just cause or when authorized by this Title. An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and to his backwages computed from the time his compensation was withheld from him up to the time of his reinstatement."

Finding that the assessments of facts made by both the Labor Arbiter and the respondent Commission are in full accord with the evidence on record and in conformity with the applicable laws and jurisprudence, We are leaving them undisturbed.

ACCORDINGLY, for lack of merit, petition is hereby DISMISSED. However, with respect to backwages, private respondent Ricardo Pasadilla shall be entitled to 50% only.

SO ORDERED.

Teehankee, Acting C.J., Melencio-Herrera, Plana, Gutierrez, Jr., and De La Fuente, JJ., concur.
Alampay, J., no part.

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