

ARTEX DEVELOPMENT CO., INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, NORIEL GONZALES AND CLARITA BENSON, RESPONDENTS.

G.R. No. 65045. July 20, 1990

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

This petition seeks to reverse and set aside the National Labor Relations Commission resolution dated August 4, 1982 denying petitioner's appeal from the decision of the Labor Arbiter dated May 7, 1981, directing the petitioner to reinstate the two (2) private respondents to their former positions in the company, with full backwages.

On April 2, 1980, the private respondents filed individual complaints against the Artex Development Co., Inc. ("the Company" for brevity) for illegal dismissal, docketed as NCR-STF-4-2100-80, later NCR Case No. AB-4-5446-80.

Noriel Gonzales who had been employed since 1974 as a doffer in the company's Spinning Department, was dismissed on March 14, 1980, for alleged abandonment of duty and gambling, based on reports from his supervisors, Marciano Ilaya, and a Mr. Escleto without being given an opportunity to refute those charges.

The other complainant, Clarita Benson, a regular worker of the company until December 14, 1980, was laid off because of a pre-announced temporary shut-down of the factory starting December 17, 1979 with assurance that she would be called back upon the resumption of work but on March 17, 1980, she received a letter from the company informing her of the termination of her services for abandonment. Thereupon she filed a complaint for illegal dismissal.

Notification and summons were issued to the parties by the senior labor arbitration analyst, informing them of an initial hearing on May 5, 1980 and that their respective position papers should be filed at least three days prior thereto. The scheduled hearing did not proceed for failure of the company's representative to appear. Another notice of hearing on May 9, 1980 was sent to the company by telegram. Notices by telegram for subsequent hearings scheduled for May 21, 28 and June 10, 1980 were likewise sent to the company, as per bailiff's returns. The company's representative, however, failed to appear at any of the hearings, prompting the complainants to move that the case be submitted for decision. Only the private respondents submitted their position paper.

On May 7, 1980, the Labor Arbiter rendered a decision, the dispositive portion of which reads:

"In view of the foregoing circumstances, complainant's charge of illegal dismissal must be sustained in the absence of denial or evidence to the contrary by respondent due to the failure of its manager and/or representative to appear and submit its position paper and supporting documents.

"Accordingly, respondent should reinstate complainants to their respective former positions without loss of seniority rights and with full backwages.

"WHEREFORE, PREMISES CONSIDERED, within ten (10) days after receipt of this Decision, respondent ARTEX DEVELOPMENT CO., INC., is hereby directed to reinstate complainants Noriel Gonzales and Clarita Benson to their respective former positions with full backwages from the date of their dismissal until such time that this Decision has been complied with." (pp. 80-81, Rollo.)

The company filed a motion for reconsideration of the decision, claiming that its failure to appear at the scheduled hearings was due to the fact that it did not receive summons nor any notice of hearing. The complainants opposed the company's motion for reconsideration and filed a motion for execution of the judgment.

The existing rule (Rule VII, Section 9 of the National Labor Relations Commission Rules) was that "no motion for reconsideration of the labor arbiter's decision shall be entertained unless in the nature of an appeal to the Commission." Instead of treating respondent's motion for reconsideration as an appeal and elevating it to the Commission, the arbiter set the case for hearing and thereafter issued an Order dated July 30, 1981, denying the motion for lack of merit (p. 53, Rollo).

On September 16, 1981, the company appealed to the Commission, alleging denial of due process. The NLRC's third division dismissed the appeal in a resolution dated August 4, 1982, stating that:

"The records plainly show that the instant case was set for hearing on the following dates: May 5, 9, 21 and 28, 1980 and on June 10, 1980. Notices of the same were duly served to the respondent through telegrams, which telegrams were fully confirmed by the Telegraph Company for the hearings on May 9, 21 and 28, 1980 (pp. 20, 21 and 22, Records). In the face of these strongly convincing evidence, there could be no room for doubt that contrary to its claim, respondent had been accorded all the opportunities that it needed for it to present evidence in its defense. Its refusal to avail of the same cannot be construed otherwise than a plain waiver of its right to do so.

"Under the given circumstances, We cannot therefore disturb the decision and order in question." (p. 84, Rollo.)

After the motions for reconsideration were denied by the National Labor Relations Commission's Third Division and by the Commission En Banc, the company filed this petition for certiorari alleging grave abuse of discretion on the part of the labor arbiter and the NLRC for rendering judgment against the petitioner without due process.

There is no merit in the petition for certiorari. The confirmation copies of the telegraphed notices of the various hearings before the Labor Arbiter showed that the telegrams were properly sent and delivered in the ordinary course of business. As the petitioner had not changed its address, nor did the Telegraphic Communication Office advise the senders (herein respondents) that the telegrams were undelivered, and as petitioner had in fact received all copies of the Labor Ministry's resolutions and decisions sent to its address, the presumption is that it received the notices of hearing.

Even if the petitioner was not heard at the stage of mediation and fact-finding, it may not complain of lack of due process for it was given an opportunity to present its side of the controversy when its motions for reconsideration and appeal were given due course (*Maglasang v. Ople et al.*, 63 SCRA 508; *Cuerdo v. Commission on Audit*, 166 SCRA 657). What due process abhors is not lack of previous notice, but absolute lack of opportunity to be heard (*Tajonera et al v. Lamaroza*, 110 SCRA 438; *Zoleta v. Drilon*, 166 SCRA 548).

Furthermore, when the decision or order of an administrative agency is not tainted with unfairness or arbitrariness, its factual findings are generally accorded not only respect but also finality. The finding of the Commission in this case that the petitioner had been duly notified of the hearings before the Labor Arbiter, and that hence it was not denied due process of law, must be respected since it is supported by substantial evidence.

WHEREFORE, the petition is denied. However, conformably with existing doctrine,* the decision of the Labor Arbiter is hereby modified by limiting the private respondents' backwages to not more than three (3) years. Costs against the petitioner.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

* Mercury Drug Co., Inc. vs. CIR, 56 SCRA 694; Asiaworld Publishing House, Inc. vs. Ople, 152 SCRA 219; Mariners Polytechnic School vs. Hon. Leogardo, Jr., G.R. No. 74271, March 31, 1989.

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