

SAN MIGUEL CORPORATION, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION, LABOR ARBITER LOLITO C. FULLEROS AND ANTONIO MANGAMPO, RESPONDENTS.

G.R. No. 72572, December 19, 1989

Ponente: REGALADO, J.

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REGALADO, J.:

On January 5, 1981, petitioner San Miguel Corporation (SMC, for short) filed an application for clearance to terminate the services of private respondent Antonio Mangampo with the then Ministry of Labor and Employment Regional Office No. 5 in Naga City. At that time, private respondent had been working as warehouseman-cashier at petitioner's sales office in Daet, Camarines Norte for about six (6) months. The application was anchored on private respondent's alleged violation of company rules and the Labor Code consisting of "misappropriation of company funds deposited in their (sic) custody." [1] In the meantime, private respondent was placed on preventive suspension and the application therefor, leading to termination, was received by said respondent on January 7, 1981. [2]

An opposition having been filed by private respondent on January 17, 1981, the case was certified to the Labor Arbitration Branch of Regional Office V of respondent commission and docketed therein as RAB Case No. 102-81. Respondent Executive Labor Arbiter Lolito C. Fulleros, to whom the case was assigned, required the parties to submit their position papers. Private respondent complied by filing his position paper on March 12, 1981 registering his opposition to the application for want of evidence to prove his responsibility. [3]

For purposes of reception of evidence, the case was assigned to the senior labor analyst as hearing officer. Efforts were exerted to arrive at an amicable settlement but, proving fruitless, hearing was scheduled on June 9, 1982 but was reset to June 27, 1983 for failure of petitioner's counsel to appear on the first scheduled date. [4] Again, petitioner and its counsel failed to appear, prompting private respondent to orally move for the adoption of his position paper as direct testimony and to declare the petitioner in default. Both prayers were granted by the hearing officer.

Nevertheless, "in order to serve the ends of labor justice," petitioner was later allowed to file its position paper which served as direct testimony. In its said position paper, dated July 18, 1983, [5] petitioner justified private respondent's termination by contending that he breached the trust and confidence reposed in him. Petitioner further moved to dismiss the case on the ground that the application for clearance to terminate which it had earlier filed was a "mere report." It was claimed that clearance to terminate was applicable only to employees with at least one (1) year of service, hence private respondent should file another complaint that would be the basis of a resolution by the commission with respect to his termination.

A report was submitted by the hearing officer to Executive Labor Arbiter Fulleros recommending the reinstatement of private respondent. The factual findings and the conclusions of law in said recommendation were adopted by said arbiter in his decision ordering SMC "to reinstate Antonio Mangampo to his former position

without loss of seniority rights and other benefits granted by law, or to any other position of similar rank: to pay Antonio Mangampo the sum of P21,420.00 corresponding to his backwages and, to pay the sum of P2,142.00 as attorney's fee." [6]

After petitioner received the said decision of the labor arbiter on July 18, 1984, it appealed to respondent commission, reiterating its position that the termination of private respondent's service by reason of loss of trust and confidence was warranted. Said appeal was docketed as Case No. RAB-V-162-81.

Respondent Mangampo moved to dismiss the appeal on the ground that it was filed beyond the ten-day reglementary period under then Article 223 of the Labor Code. It was claimed that "said appeal was mailed by the applicant on August 6, 1984 as borne out in the rubberstamp (sic), received by Philcomcen post office, Ortigas Avenue, Pasig, Metro-Manila." [7]

In its resolution of March 8, 1985, respondent commission dismissed the appeal, agreeing with the private respondent that it was not filed seasonably. [8] A motion for reconsideration was filed by petitioner insisting that the appeal was sent by registered mail on July 27, 1984. To prove its said allegation, petitioner attached a zerox copy of Registry Receipt No. 866 bearing a handwritten date, July 27, 1984, as the supposed date of mailing.

Said motion for reconsideration was denied by the commission on September 20, 1985, with the ratiocination that "(a)s between the handwritten date of mailing appearing on a mere zerox copy of a registry receipt, without more, and the date of posting indicated by the post office stamp on the envelope, attached to the records of the case pursuant to the Rules of Court, the latter must be given more weight and belief." [9]

In the present petition, the dismissal of said appeal is challenged and stigmatized as tainted with grave abuse of discretion. Petitioner claims that the respondent commission erred in (1) ruling that the appeal was filed out of time, and (2) dismissing the appeal without determining the merits of the case. In our resolution of November 13, 1985, we issued a temporary restraining order against the enforcement of the resolutions dated March 8, 1985 and September 20, 1985 of respondent commission. [10]

We find, however, that petitioner's present recourse is devoid of merit and cannot justify the issuance of the extraordinary writ of certiorari.

Under Section 1, Rule 13 of the Rules of Court, where the filing of pleadings, appearances, motions, notices, orders and other papers with the court are made by sending them by registered mail, the date of mailing as shown by the post office stamp on the envelope or the registry receipt shall be considered as the date of filing.

Thus, such date of filing is determinable from two sources, that is, from the post office stamp on the envelope or from the registry receipt, either of which may suffice to prove the timeliness of the filing of the pleadings. If the date stamped on one is earlier than the other, the former may be accepted as the date of filing. This presupposes, however, that the envelope or registry receipt and the dates appearing thereon are duly authenticated before the tribunal where they are presented.

The appeal to respondent commission in Case No. RAB-V-162-81 was dismissed for having been filed out of time, that is, nineteen (19) days after receipt by petitioner of the decision of the labor arbiter. Respondent commission's finding is that the appeal was filed on August 6, 1984, the date stamped on the envelope which was part of the records of the case. Petitioner's contrary stance, on the other hand, is based on the handwritten date appearing in a zerox copy of the purported registry receipt. It is to be noted that such submission of a mere zerox copy of the registry receipt was not even accompanied or supplemented by proof that said receipt pertains to the appeal mailed by petitioner. Neither did petitioner present the original of said receipt, which in the natural course of things would be in its possession or available to it, in spite of the doubt cast on the authenticity of said zerox

copy and the issue raised thereon. We hold that respondent commission correctly relied on the date appearing in the post office stamp on the mailing envelope and in consequently holding that petitioner's appeal was time-barred.

Of compelling significance is the fact that the date stamped on the mailing envelope containing the copy of petitioner's appeal which was furnished to private respondent bears the same date, August 6, 1984, as the date of mailing[11] and bears registry stamp No. 865 thereon. To recall, the zerox copy of the registry receipt with the handwritten date of July 27, 1984, which petitioner presented, is Registry Receipt No. 866. Petitioner did not question these facts.

The accepted procedure is that a copy of the pleading is first or simultaneously furnished the opposing party and proof of such service is indicated on the original of the pleading filed in court or with the adjudicative agency, such indication being either a handwritten acknowledgment by the adverse party or the registry receipt of the copy mailed to him. In other words, since the service of the copy to private respondent could not have been made subsequent to the filing by mail of the original pleading to respondent commission, it was correctly held that the appeal was made, at the earliest, on August 6, 1985.

The decision having become final and executory, the dismissal of the appeal without determining the merits of the case was proper. But, even if the appeal was seasonably filed, it is irremissible that petitioner's application for clearance to terminate private respondent's services must fail. Not only is there no showing of grave abuse of discretion but petitioner also failed to support its claim that such termination was warranted.

A conclusion contrary to what petitioner contends for appears from the facts and circumstances established by evidence painstakingly unearthed in a thorough investigation of the case, the lengthy results whereof are detailed in the decision of the labor arbiter. These are factual findings which we cannot reject, not only because we are generally bound thereby but because they are convincingly logical and sustainable. In its application, the reason advanced by petitioner was the alleged misappropriation of company funds by private respondent. However, there was a marked paucity of proof which could plausibly connect respondent Mangampo to the loss of said funds. The police investigators even failed to establish a case against anybody and merely observed that there was a strong indication of an inside job. No criminal complaint was filed because no such complaint is warranted. We cannot, in justice, have private respondent's fate hinge upon conjectures and surmises.

The loss of trust and confidence that petitioner relied upon in its position paper is likewise unsupported by substantial evidence. As observed by the hearing officer, the loss of the company funds, even if true, cannot just be attributed to private respondent because it clearly appears from the records that it was not only said private respondent who had access to the safe where the funds were kept.[12]

We are convinced that the respondent employee's dismissal cannot justifiably be sustained since the findings in this case and whatever investigations may have been made by petitioner miserably fail to establish either complicity or culpability on his part. While dishonesty or disloyalty of an employee is not to be condoned, neither should a condemnation on that ground be tolerated on the basis of suspicions spawned by speculative inferences.

WHEREFORE, the dismissal of petitioner's appeal is AFFIRMED and the temporary restraining order heretofore issued by us is lifted. The decision of the Executive Labor Arbiter, dated June 26, 1984, which in effect is affirmed, is hereby modified in the sense that, in accordance with present jurisprudential policy, the backwages to be paid to private respondent should not exceed three (3) years computed at his salary rate when his services were suspended or terminated, without any deduction or qualification.

SO ORDERED.

Melencio-Herrera, (Chairman), and Paras, JJ., concur.

Padilla, J., no part, because of equity interest in petitioner-corporation.

Sarmiento, J., no part, was former Director and legal consultant and also because of equity interest.

[1] Rollo, 22.

[2] Ibid., 177.

[3] Ibid., 25-32.

[4] Ibid., 40.

[5] Ibid., 33-39.

[6] Ibid., 47.

[7] Ibid., 57.

[8] Ibid., 60-62.

[9] Ibid., 143-144.

[10] Ibid., 75-77.

[11] Rollo, 90.

[12] Ibid., 45.

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