

JOSE G. BUSMENTE, JR., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND APOLONIO CENTRON, DOING BUSINESS UNDER THE NAME AND STYLE, CENTRONET ENTERPRISES, RESPONDENTS.

G.R. No. 73647. April 08, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

Jose G. Busmente, Jr. filed a complaint on June 20, 1984 for illegal dismissal, underpayment, overtime pay, legal holiday pay and violation of PD Nos. 525, 851, 1123, 1634, 1678 and 1713, with the Arbitration Branch of the NLRC (National Capitol Region) against Apolonio Centron, doing business under the name and style of Centronet Enterprises (a.k.a. Centronet Food Products or Centronet International). The action thus commenced was docketed as NLRC-NCR Case No. 6-2241-84. In his complaint Busmente described himself as a driver of Centron, and the latter as engaged in the business of exporting, packing, and processing, with a work force of more or less 18 employees.

The case was assigned to Labor Arbiter Teodorico Ruiz who, by Order dated July 25, 1984, dismissed the complaint without prejudice for "failure on the part of the complainant to comply with the directive of this Office to file his position paper and affidavit when so directed on July 17, 1984 and to appear on July 23, 1984, despite previous notice, indicative of lack of interest to prosecute* * *."

Busmente promptly filed a motion for reconsideration on July 24, 1984. Centron filed an opposition dated October 2, 1984; Busmente submitted a reply dated October 5, 1984; and then Centron filed a Rejoinder to Reply dated October 23, 1984. In the Rejoinder, Centron drew attention to another case, NLRC-NCR-7-2510-84 — instituted by him (Centron) against Busmente for damages caused by the latter's abandonment of his work — in which a decision had been rendered on September 28, 1984 precisely declaring that Busmente had "lost his employment status. . . on account of abandonment."

The Arbiter then required the parties to submit their "respective position papers and other evidence so that the motion for reconsideration * * * may be resolved together with the merit of the case." The parties complied. Thereafter the Arbiter rendered judgment under date of December 17, 1984. The Arbiter declared that "after careful review of the evidence," Busmente's monetary claims could not prosper since Centron had "fully substantiated in his affidavit duly supported by payrolls duly signed by the complainant (Busmente) that until his abandonment of work, complainant was paid all the allowances and pays required by law," and that at no time from his employment as driver in 1979 until his abandonment of work on June 14, 1984 had he ever complained of underpayment. The Arbiter also found that, as adjudged in NLRC-NCR-7-2510-84, supra, Busmente had indeed abandoned his work and "refused to return to his job despite oral and written offers of * * * (Centron) to this effect," on account of which he had "lost his employment status." Busmente's complaint was accordingly dismissed.

In said NLRC-NCR-7-2510-84 — commenced on July 13, 1984 on complaint of Centron against Busmente, for damages resulting from the latter's abandonment of his job, and decided, as aforesated, on September 28, 1984 — the following facts were found to have been established by the evidence, to wit:. The Arbiter found that:

1) Centron had sent Busmente a letter dated June 18, 1984 of the following tenor:

"For abandonment of work June 14, 15, 16, 18, 1984 and for your absences without verbal or written permission, you are hereby directed to explain in writing within five days from receipt why you should not be dismissed from employment. As you know, we are in need of a regular driver and your actuation greatly affected the operation of our company."

2) Busmente had refused to receive the letter constraining Centron to file a copy thereof with the National Capital Region of the Ministry of Labor and Employment on the same day, June 18, 1984;

3) although aware of the contents of the letter, Busmente had continued to absent himself despite oral and written demands of Centron, and never bothered to submit any explanation;

4) his failure to report for work as driver of Centron was due to the fact that he had been driving for his brother, who is engaged in a business similar to that of Centron; and

5) despite all this, Busmente's wife and step-child had remained in Centron's employ.

On the basis of the foregoing factual findings, the Arbiter ruled that Busmente's acts and omissions constituted insubordination and abandonment, resulting in the loss of his employment status. The Arbiter nevertheless declined to hold him liable to Centron for damages "in the spirit of compassion."

Both decisions — in NLRC-NCR Case No. 6-2241-84 and NLRC-NCR Case No. 7-2510-84 — were appealed by Busmente to the National Labor Relations Commission where, however, he fared no better. Both decisions were affirmed.

His appeal from the judgment in NLRC-NCR Case No. 6-2241-84 was dismissed by the First Division by judgment promulgated on October 25, 1985. It ruled that the findings and conclusions of Arbiter Ruiz were "substantially supported by the evidence on record."

His appeal from the judgment in NLRC-NCR Case No. 7-2510-84 was also dismissed by the First Division in a judgment promulgated on August 8, 1986. The First Division held that contrary to Busmente's contention, the record did not show that he had been denied due process, and that the Arbiter's finding that Centron was able to prove abandonment on Busmente's part was correct in the light of the established facts.

Refusing to concede defeat, Busmente has instituted the present action of certiorari in this Court, seeking to invalidate and set aside the judgment of the respondent Commission of August 8, 1986. In the case at bar, he basically challenges the conclusion of the respondent Commission, and the two Labor Arbiters, that the evidence proved his abandonment of his work.

Resolution of that basic question would, of course, entail a review of the evidence. The question is in truth a question of fact. In certiorari proceedings under Rule 65 of the Rules of Court, however, questions of fact are not generally permitted, the inquiry being limited essentially to whether or not the respondent tribunal had acted without or in excess of its jurisdiction, or with grave abuse of discretion.[1] In this case, the Arbiters and the respondent Commission clearly had jurisdiction, and did not go beyond it in hearing and determining the actions for and against Busmente. The parties were heard conformably to the norms of due process; evidence was presented by both parties and duly considered; their arguments were studied, analyzed, and assessed; and judgments were rendered in which findings of fact and conclusions of law were set forth. Those conclusions of

fact or law cannot in any sense be characterized as outrageously wrong or manifestly mistaken, or whimsically or capriciously arrived at. The worst that may perhaps be said of them is that they are fairly debatable, and may even be possibly erroneous. But they not be declared to have been made with grave abuse of discretion.

WHEREFORE, the petition is DISMISSED, without pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] SEE Moran, Comments on the Rules, 1979 ed., Vol. 3, p. 166, citing Tarnate v. Daza, 76 Phil. 842; Ong Sit v. Piccio, 78 Phil. 785; Ang Ching Gi v. De Leon, 79 Phil. 580; Ma-ao Sugar Central Co., Inc. v. Barrios, 79 Phil. 666; City of Davao v. Dept. of Labor, etc., 13 SCRA 111; Pacis, et al. v. Averia, et al., 18 SCRA 907; Aguilar v. Tan, 31 SCRA 205

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