

**PAN PACIFIC OVERSEAS RECRUITING SERVICES, INC., AND
ALMABANI GENE-RAL CONTRACTORS, PETITIONERS, VS. THE HON.
COMMISSIONERS DIEGO P. ATIEN-ZA, GERONIMO Q. QUADRA AND
CLETO T. VIL...**

G.R. No. 74009. August 27, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

Impugned in this special civil action of certiorari is the decision of respondent National Labor Relations Commission, affirming that of the Philippine Overseas Employment Administration, which declared petitioners Pan Pacific Overseas Recruiting Services, Inc. and Almabani General Contractors guilty of having illegally dismissed private respondent Allan P. Brazil, and ordered them, jointly and severally, to pay his salaries corresponding to the unexpired portion of his contract, accrued leave credits for 15 days, and attorney's fees.

Brazil was hired by Almabani through its agent, Pan Pacific, to work in Saudi Arabia as a heavy equipment foreman at a monthly salary of 2,650 rials for a period of two (2) years commencing on December 10, 1981.[1]

The petitioners allege that before the end of his first year of employment, Brizal had (1) organized a labor strike; (2) caused heavy equipment to cross a flooded area at nighttime against the instructions of the project management; (3) repeatedly and unjustifiedly absented himself from work; and (4) without due authority traveled outside the project site using a company vehicle.¹ The petitioners further aver that on being apprised that the commission of these acts was not only sufficient ground to terminate his employment but also rendered him amenable to criminal prosecution under Saudi Arabian laws, Brazil proposed that he be allowed to resign from his work and leave Saudi Arabia. Almabani agreed, and consequently decided to forego the filing of administrative and criminal charges against him.²

Brazil resigned. However, according to the petitioners, he requested that a certificate of eligibility for re-employment be issued to him so that he would not be "black-listed" and might in the future have a chance to work once more in Saudi Arabia. Again his employer agreed. The requested certificate was issued to him under date of November 30, 1982.³ On December 13, 1982 Brazil signed a "clearance of account" in which he acknowledged having received all remuneration due him, and waived any further claims against Almabani.⁴ He was then given a one-way airplane ticket to the Philippines, and his passport was stamped with an exit visa only.⁵ He arrived in the Philippines on December 23, 1982.

On January 18, 1983, however, Brazil filed with the Philippine Overseas Employment Administration (POEA) a complaint for illegal dismissal, claiming that his employer had dismissed him without notice while he was on his fifteen-day vacation in the Philippines in December, 1982.⁶ On October 12, 1984, the POEA rendered judgment in favor of Brazil and against Almabani and Pan Pacific.⁷ The judgment was affirmed by the National Labor Relations Commission by Resolution dated July 9, 1985.⁸ Two motions for reconsideration of that resolution having proved futile, Almabani and Pan Pacific filed the instant petition with this Court.

The petitioners contend that material evidence was ignored showing that Brazil's employment was not illegally terminated, but that it was in fact he who had proposed and agreed to resign and pre-terminate his employment contract to avoid criminal and administrative sanctions under Saudi Arabian law resulting from his own wrongful acts.⁹

A perusal of the record and the impugned decision reveals that material evidence was indeed ignored for unstated reasons, to wit: the certificate of re-employment dated November 30, 1982;¹⁰ the certification of the Ministry of Foreign Affairs of Saudi Arabia to the effect that Brazil left Saudi Arabia with an exit visa only;¹ and the clearance of account with waiver dated December 13, 1982.²

The certificate of re-employment, which Brazil admittedly caused to be prepared, clearly proves that as early as November, 1982 he already knew that his employment contract was expiring the following month, this being stated in the certificate. That certificate, issued even before completion of the first year of his two-year contract, contradicts his claim that he was merely on vacation leave in December, 1982. Brazil's explanation that he asked for the certification merely as a favor or a token of remembrance is too shallow to merit serious consideration.

Another document unaccountably ignored by the NLRC was the certification of the Ministry of Foreign Affairs of Saudi Arabia declaring that Brazil left the country with an exit visa only. If Brazil was departing merely on a 15-day vacation in the Philippines, as is his claim, his passport would have contained a re-entry visa. But his passport had none. The absence of such a re-entry visa is a clear indication that he was leaving Saudi Arabia with no definite date of return, and therefore, Brazil was no longer expected back by Almagani. It is true that Brazil submitted a copy of his alleged passport to show that a re-entry visa was stamped thereon. But this copy cannot be given any weight. It was not duly authenticated; it does not in any case, definitely show any re-entry visa impressed thereon; and the certification of the Saudi Arabian Ministry of Foreign Affairs definitely has comparatively greater probative value.

That Brazil was given only a one-way airplane ticket out of Saudi Arabia, as impliedly admitted by him,³ further shows that when he returned to the Philippines in December, 1982, he had already been separated from employment. Otherwise, if he were simply going on vacation, he would have been issued an "excursion round trip ticket," this being stipulated in Section 9 of his employment contract.

Finally, the "clearance of account" which bears the date of December 13, 1982, or 10 days before Brazil's return to the Philippines, sets forth not only the computation of the separation pay due to him but also a statement of receipt of all "salaries, holidays, rewards and rights with the Company" (sic) and a waiver or negation of "rights to return to the company in sign of request or claim in the future" (sic).

To be sure, Brazil denied having signed the clearance of account, claiming that his purported signature therein had been forged. His denial is unavailing. For one thing, the clearance of account has been authenticated by the proper government agencies of the Kingdom of Saudi Arabia and the Philippines. For another, not only did Brazil admit that the document was really presented to him for signature,⁴ but he also failed to follow up and insist on his challenge that the same be submitted for verification of his signature by the National Bureau of Investigation.

It thus appears that the NLRC whimsically and capriciously disregarded evidence material to and even decisive of the controversy. In doing so, it acted with grave abuse of discretion justifying the issuance of the corrective writ of certiorari.¹ As the Solicitor General points out, "private respondent acted in bad faith when he made a false claim that he was dismissed while on vacation leave, although he knew even on the basis of his own evidence, that he had already resigned from Almagani when he left Saudi Arabia ** (but) notwithstanding the absence of credible evidence to substantiate his claim, and the presence of no less than four (4) documents negating his claim, it is surprising that the decision was still rendered in his favor ** (awarding) more or less the equivalent of

P200,000.00 in benefits which were unworked for, on the basis of a prevaricated claim. ** (S)uch a decision will open the floodgates for the filing of similar false claims which will undermine and eventually destroy the overseas employment program of the Philippines."

WHEREFORE, the Resolution of the National Labor Relations Commission dated July 9, 1985, as well as those dated October 18, 1985 and March 4, 1986, are nullified and set aside, and private respondent's complaint for illegal termination of employment is dismissed. Costs against private respondent.

Teehankee, C.J., Cruz, Paras, and Gancayco, JJ., concur.

[1] Rollo, p. 70

1 Annexes A and B, petition

2 Rollo, p. 147

3 Annex C, petition

4 Annex D, id.

5 Annex R, id.

6 Annex E, Petition

7 Annex J, id.

8 Annex L, id.

9 Rollo, pp. 10-11

10 Annex C, petition, supra

1 Annex R, id., supra

2 Annex D, id., supra

3 See the prayer in his complaint: Annex G, petition

4 Annex Q

1 Hamoy v. Hon. Secretary of Agriculture and Natural Resources, 106 Phil. 1046, 1054, citing Tan v. People, April 27, 1951, and Abad Santos v. Province of Tarlac, 67 Phil. 480; Buiser v. Leogardo, Jr., 131 SCRA 152, 1549, citing Phil. Virginia Tobacco Administration v. Lucero, 125 SCRA 337, 343, Fajardo v. Garda, 98 SCRA 514, 518

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