

VICTORIA M. TOLENTINO, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, BF LIFEMAN INSURANCE CORP. AND/OR ENRIQUE M. ZALAMEA, JR., PRESIDENT, RESPONDENTS.

G.R. No. 75380. July 31, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari to annul and set aside 1) the decision of respondent National Labor Relations Commission (NLRC for short) promulgated on April 16, 1986 which modified the decision of the Labor Arbiter and 2) its resolution denying petitioner's motion for reconsideration.

Petitioner filed a complaint for illegal dismissal against private respondents with the Arbitration Branch of public respondent NLRC docketed as NLRC/NCR Case No. 10-38-38-84 which rendered a judgment, its dispositive portion reading as follows:

"WHEREFORE, judgment is hereby rendered:

"a. declaring complainant as suspended from work for the period of October 15 to 26, 1984; and

"b. ordering respondent to reinstate complainant to her position, without loss of seniority, with back wages from October 27, 1984 up to the date of actual reinstatement." (pp. 32-33, Rollo)

On appeal to the NLRC by respondent company, a decision was rendered modifying the decision of the Labor Arbiter; the decretal portion of the NLRC decision reads:

"WHEREFORE, in view of all the foregoing considerations, the Decision appealed from is modified by deleting the award of reinstatement and its consequences and instead, ordering respondent to pay complainant six (6) months back wages plus separation pay equivalent to one-half (1/2) month salary for every year of service, a fraction of at least six months being considered as one whole year." (Rollo, p. 64)

Hence this appeal, petitioner relying on the following arguments:

I

"PECULIAR CIRCUMSTANCES" INVOKED IN NLRC DECISION WITHOUT FACTUAL BASIS AND, IN ANY EVENT, NOT RELEVANT TO ISSUE OF REINSTATEMENT.

II

MODIFICATION OF ARBITER'S AWARD TO LIMITED BACKWAGES UNJUSTIFIED AND WITHOUT LEGAL BASIS.

III

SUBSTANTIAL JUSTICE SACRIFICED TO TECHNICALITY.

The antecedent facts of the case are as follows:

Petitioner was the Audit Supervisor in respondent-company with a monthly pay of P2,015.00 until she received an Inter Office Memo, signed by the Personnel Manager and in the following tenor:

"We regret to inform you that after a thorough investigation of the case filed against you regarding the incident of Sep-tember 5, 1984, we have to terminate your employment effective Monday, October 15, 1984." (Rollo, p. 25)

It appears that the incident referred to in the memo was a slapping incident wherein petitioner was admittedly the aggressor of the Manager in the Accounting Services Department, a certain Mrs. Teofista Villadelgado, allegedly because she (petitioner) could no longer "repress her feeling of being unjustly aggrieved by the baseless and vindictive merit ratings which the latter official gave the complainant and the subsequent false rationalizations she forwarded to justify her actions, which adversely affected her official record and position in the company and that she was forced to do so to relieve her of some of the pain she has been suffering."

Petitioner on October 15, 1984, sought reconsideration of the decision of management to terminate her services. Management in denying the request of petitioner filed a report of termination dated October 16, 1984 on the further ground of "grave misconduct and falsification of documents."

In rendering favorable judgment for petitioner-complainant the Labor Arbiter found that there was an absence of a valid cause for dismissal, declaring as follows:

"We are, therefore, inclined to agree with complainant's contention, thus?

"There is no question that the complainant's offense during that September 5, 1984 incident was her first. It is not denied that Mrs. Villadelgado suffered no physical injury. Had the matter been clear that the incident was not attended by any qualifying factor or circumstance that would warrant the imposition of the applicable penalty in its maximum range. This would have been different if complainant continued attacking the victim in such vicious and violent manner which necessarily resulted in physical injuries. Even in the extreme case the maximum penalty which may be imposed for the first offense is 'suspension of 12 days'.

"Respondent should have considered, on the other hand the prejudice that complainant suffered due to Mrs. Villadelgado's initial in-action and later her unjust and unfounded appraisal in the subject merit rating. Any derogatory rating adversely affects even the pay increase of the employee not to mention her company standing. The members of the Personnel Committee should have exercised fairness and understanding."

"Concerning the falsification charge, the same is certainly not a ground cited by management in its October 10, 1984 memorandum terminating the services of complainant. We are inclined to agree, therefore, that the inclusion of this charge is a mere afterthought, apparently hatched up after realizing that the slapping incident might not suffice as a valid ground for complainant's dismissal.

"The Rules Implementing Batas Pambansa Blg. 130 further amending the Labor Code, Rule XIV thereof, provide:

SEC. 6 Decision to Dismiss. The employer shall immediately notify a worker in writing of a decision to dismiss him stating clearly the reasons therefor." (underscoring supplied)

Moreover, the alleged falsification was done not 'to obtain the release of the loan proceeds', as alleged, to show

intent to gain, it appearing that said releases effected May 11, 17 and 30 took place prior to the commission of the act in question." (p. 32, Rollo)

On appeal by private respondent, the NLRC, found no reversible error of the Labor Arbiter and modified the ruling by declaring that:

"Be that as it may, however, We strongly feel that, considering the peculiar circumstances obtaining in this case, the award of reinstatement is no longer feasible. Firstly, unlike in the prior fighting incident where the protagonists belonged to different departments and were of practically the same rank, the persons involved in the 5 September 1984 incident belonged to the same department where one was the superior of the other. To order therefore the reinstatement of complainant to her former position will certainly not serve the interest of industrial peace in the company. Secondly, respondents have found as a fact that complainant Tolentino falsified the signature of her co-maker in two promissory notes forming part of her chattel mortgage loans with the company. While this evidentiary aspect was not considered in the resolution of the case, and rightly so, the fact remains that insofar as the management of the company are concerned, Tolentino as already breached their trust and confidence in her. This is another point that assails the propriety of reinstating Tolentino.

"It is therefore Our considered opinion and so hold, that it would be more reasonable and proper that instead of reinstatement, complainant Tolentino be awarded a limited back-wages plus separation pay."

In other words public respondent NLRC found that petitioner was dismissed without sufficient cause but none-theless denied her reinstatement to her former position. Hence this appeal by petitioner.

Petitioner's contentions deserve credence.

The records of the case reveal that it is not true as found by the public respondent NLRC that petitioner and Ms. Villadelgado belonged to the same department during the period material to this case. While petitioner, since March 16, 1984 and until her illegal dismissal on October 15, 1984, was admittedly a supervisor in the Auditing Department, Ms. Teofista Villadelgado, on the other hand, was the Department Head of the Agents Account Control Department. However prior to March 16, 1984, Ms. Villadelgado was the petitioner's superior officer in the Accounting Services Department. During the relevant periods, petitioner's superior was Mr. Eladio T. Bolos, Assistant Vice-President and their Auditing Department was under the Office of the President. Mrs. Villadelgado was in another department, the Agents Control Department (as Manager thereof) which was under the Sales Division. It is clear therefore that the ruling of respondent NLRC against reinstatement is anchored on a false premise and contrary to the evidence on record.

There is also no showing that the position previously held by the petitioner no longer exists or that should the petitioner be reinstated to her former position, industrial unrest in the company would result. To follow respondent NLRC's reasoning, every fight or quarrel between employees which is punishable by suspension and not dismissal, will prevent the reinstatement of an otherwise unjustly dismissed employee upon the pretext or excuse of an industrial unrest.

Reinstatement of the petitioner is mandated by law. Thus Art. 280 of the Labor Code provides as follows:

"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." (Labor Code, emphasis given).

And to implement the foregoing rule, the Minister Labor and Employment promulgated the following rules:

"Sec. 4. Reinstatement to former position.- (a) an employee who is separated from work without just cause

shall be reinstated to his former position, unless such position no longer exists at the time of his reinstatement, in which case he shall be given a substantially equivalent position in the same establishment without loss of seniority rights.

(b) In case the establishment where the employee is to be reinstated has closed or ceased operations or where his former position no longer exists at the time of reinstatement for reasons not attributable to the fault of the employer, the employee shall be entitled to separation pay equivalent at least to one month salary or to one month salary for every year of service, whichever is higher, a fraction of at least six months being considered as one whole year."

(Rule 1, Book IV, Rules to Implement the Labor Code).

Security of tenure is a right of paramount value as recognized and guaranteed under our new constitution. "The State shall afford full protection to labor, x x x and promote full employment and equality of employment opportunities for all. It shall guarantee the rights of all workers to x x x security of tenure x x x" (Sec. 3, Art. XIII on Social Justice and Human Rights, 1987 Constitution of the Republic of the Philippines.) Such constitutional right should not be denied on mere speculation of any similar unclear and nebulous basis.

Be it noted that the Office of the Solicitor General, recommends in its comment, for the setting aside of the assailed NLRC decision and for the reinstatement of petitioner with full backwages not exceeding 3 years, except for the period of her suspension from October 15 to 26, 1984 & with other employment benefits. If reinstatement to her former position is no longer possible, she should be reinstated to a substantially equivalent position (Sec. 4, Rule 1, Book IV, Implementing Rules; Labor Code).

Likewise We cannot sustain respondent NLRC in denying reinstatement to petitioner because of the alleged falsification of "signature of her co-maker in two promissory notes forming part of her chattel mortgage loans with the company", thereby creating a breach of trust and confidence of her employer and thereby rendering reinstatement unwarranted. Yet respondent NLRC admits that this evidentiary aspect of falsification was not considered in the resolution of the case. How then could the breach of trust and confidence of the company in petitioner arise? Furthermore, petitioner was not dismissed due to this falsification charge but because of the September 5, 1984 slapping incident as mentioned in the letter of dismissal. She should have been charged with the alleged falsification, given the opportunity to defend herself, and dismissed only after being proved guilty.

WHEREFORE, the assailed decision is hereby SET ASIDE. Respondent BF Lifeman Insurance Corp. is hereby ordered to REINSTATE petitioner to her former position without loss of seniority and with full back wages from October 27, 1984 until the date of her actual reinstatement (but not exceeding three years).

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

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