

HOSPICIO DE SAN JOSE DE BARILI AND ROMULO CUI, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION AND DOUGLAS R. SANSON, RESPONDENTS.

G.R. No. 75997. August 18, 1988

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a petition to review the ruling of the National Labor Relations Commission (NLRC, for brevity) affirming with modification the decision of Labor Arbiter Felipe T. Garduque II.

Petitioner Hospicio de San Jose de Barili (Hospicio, for brevity) is a charitable institution, wherein petitioner Romulo Cui, (Cui, for brevity) has been the administrator since 1982. Respondent Attorney Douglas Sanson was appointed by Cui as officer-in-charge of the Hospicio's home of the aged and disabled (HOME, for brevity) at Barili, Cebu on August 1, 1982 and later as Director on October 1, 1982.

On October 25, 1983, Cui wrote Sanson terminating the latter's services with the Hospicio effective May 1, 1983 on the following grounds: 1) habitual drunkenness while on duty in the premises of the Hospicio's HOME; 2) uttering defamatory remarks against the person of the administrator (Cui) and a member of his family; and 3) undermining the interest, of the institution by instigating two employees to file a complaint against it (Exh. "2"). Contesting his dismissal as illegal, Sanson filed a complaint with the National Labor Relations Commission, Cebu against the Hospicio and Romulo Cui. The parties submitted their respective position papers, documentary evidence and supporting affidavits. Cross-examination of the affiants was waived. Thereafter, a decision was rendered on April 8, 1985 by the Labor Arbiter, the dispositive portion of which reads as follows:

"WHEREFORE, (for) all the foregoing consideration, respondent/s are hereby ordered to immediately reinstate complainant DOUGLAS R. SANSON to the position of Director which he formerly held at HOSPICIO DE SAN JOSE DE BARILI, Cebu, without loss of seniority rights gained in the course of his employment within ten (10) days from receipt of this decision, and to pay him the amount of FIFTY THREE THOUSAND FIVE HUNDRED NINETY NINE PESOS 99/100 (P53,599.99) representing his moral, exemplary damages, 13th month pay, and backwages from May 1, 1983 to April 8, 1985, likewise within ten (10) days from receipt hereof, or by depositing the said amount with this office within the same period from receipt for further disposition.

"Respondents are likewise ordered to pay complainant additional backwages at the same rate from April 9, 1985 to his actual date of reinstatement.

"SO ORDERED." (pp. 23-24, Rollo)

Assailing the decision, therein respondents (now petitioners) appealed to the National Labor Relations Commission, Manila which denied the appeal in its Resolution penned by Commissioners Guillermo C. Medina, Gabriel M. Gatchalian, and Miguel B. Varela. Hence the present petition to review, petitioners raising the following questions:

"I. Was the dismissal of SANSON justifiable and pursuant to law?

"II. Is SANSON entitled to mid-year bonus, and year end bonus for 1983? Is he further entitled to moral and exemplary damages, and reinstatement to his former position as Director of the HOME?" (p. 4, Petition)

During the oral argument held on April 27, 1987, the jurisdiction of National Labor Relations Commission over the case was questioned by petitioners (Manifestation, p. 100, Rollo), for the first time on appeal, contending that the Hospicio is a public charitable institution and therefore the legality of the dismissal of private respondent cannot be resolved by the National Labor Relations Commission but by the Civil Service Commission. These then are the issues presented to Us for consideration.

Petitioners contend that the National Labor Relations Commission committed a grave abuse of discretion when it affirmed the finding of the Labor Arbiter that no breach of trust was committed by private respondent Sanson a) by his drinking bouts b) by his inducing two (2) employees of the Hospicio to file a case against the latter c) by his defamatory remarks against the persons of administrator CUI and his daughter Bebbette and d) by testifying against petitioner CUI in an administrative case. Petitioners argue that due to the nature of the position of private respondent as Director of the Home, which is confidential in nature, due process of law was not violated by the termination of his services.

Such arguments do not merit Our consideration. While it is true that managerial positions, such as the position held by private respondent, enjoy the confidence of top management, the constitutional right of the private respondent to due process of law demands that loss of confidence should not be used as a subterfuge for causes which are improper, illegal or unjustified. The termination letter addressed to private respondent Sanson from petitioner Cui as administrator of the Hospicio was so drastic as to prevent the usual amenities incident to his removal. Petitioners dismissed private respondent without the chance to be heard or to defend himself. Such injustice becomes more manifest when one considers respondent's impressive performance as Director of the Home (even by petitioners' own admission, Annex "C") which resulted in the qualitative and quantitative improvement in the various services in the Home while reducing substantially operating expenses, henceforth earning for him (Sanson) the love and respect not only of the Home's beneficiaries and employees but also of the people and officials of the community (Annex "B").

Indeed, the record reveals that no formal investigation was made on the report that private respondent was having drinking sessions at the Hospicio's or Home's premises. Neither was private respondent required to explain if he uttered alleged derogatory statements against the Administrator and his daughter Bebbette. Petitioners merely relied on what was relayed to them by a few on the alleged misconduct and drunkenness of private respondent. Petitioners did not conduct their own investigation and what was embodied in the letter of dismissal was merely based on hearsay or unfounded rumors. No direct or substantive evidence was or could be presented by petitioners to belie the assailed findings of the National Labor Relations Commission, to wit:

"We have scanned the records of the case and failed to find any serious misconduct committed by complainant

or any act that would amount to breach of trust or loss of confidence. The affidavits of Gina Lupian, Teofisto Zapanta and Maria Teresa Cui, (Exhs. "3", "4" and "5") do not point to this conclusion. There is a demarcation line between a normal social drinker and a drunkard or between a drinker and a habitual drunkard. Exhibit "1" or "C", the termination letter dated April 25, 1983, addressed to complainant by respondent Romulo Cui, stating among others that complainant is a heavy drinker and has resumed his drinking, is hearsay. The affidavits of Gina Lupian, (exhibit "3") and Teofisto Zapanta, (exhibit "4") tend to prove that in the middle part of November, 1982 and in the second week of December of the same year, complainant was drinking with some of his friends and relatives in his own quarters inside the Home. This is the most that can be gathered from these testimonies. As to the uncalled for remarks of complainant about respondent Cui's getting thinner with its implications, and that about his daughter, Bebbette, who, incidentally is the niece of complainant, assuming that the remarks were really said under the influence of liquor, would not amount to serious misconduct or could have caused loss of confidence as to warrant complainant's separation from the service. In any drinking session, it is but natural that some rudeness and perhaps some incivility in language can be expected even among the best of men. In a litany of cases decided by the High Tribunal involving dismissal of workers for loss of confidence, the loss of trust was associated with or involved dishonesty and/or incapability of the worker to perform his assigned task. Here, no dishonest conduct or incapability in the performance of the job can be attributed to complainant. In fact, he introduced for the first time, since the creation of the Home in 1925, a set of rules to govern employee relations and discipline, (Exhibit "D"). This is not contested by the respondent/s. No less than the respondent Administrator himself was impressed by complainant's attitude towards his job during the first month of his assumption of duty (See 3rd paragraph of Exhibit "C" or Exhibit "1"). This is further corroborated by the Resolution of the Barangay Council of Guibuangan, Barili, Cebu who expressed deep concern and dissatisfaction over the dismissal of complainant as he, even in the first months of his administration of the Home, earned the love and respect not only among the inmates but also of the different members of the staff, and was able to reduce expenditures of the institution without prejudicing essential functions, (Exhibit "A"), which is Resolution No. 83-5 of the Barangay Council of Guibuangan, Barili, Cebu, dated May 4, 1983, and the affidavit of Manuel C. Sanson, (Exhibit "E") and Teodomira Cui-Maghanoy, remarks may have hurt the finer sensibilities of respondent Romulo Cui as a man and as a father but the said remarks could not have caused respondent Cui to lose trust and confidence in complainant with respect to his job. As correctly pointed out by complainant in his position paper, (Exhibit "G"), the ground for his dismissal was not in the least, work-connected. Besides, we entertain doubts that complainant would have uttered an unsavory remark against Bebbette, the daughter of respondent Romulo Cui, besides being a member of the Philippine Bar and presumed to be of good moral character, Bebbette is also his niece. What is more, paragraph 4 of the affidavit of Gina Lupan (Exhibit "3"), states that she, together with Flora Gimina, heard complainant utter while drunk. 'Anilo, you have not fucked Bebbette?' yet no affidavit of Flora Gimina was presented to corroborate Lupian's testimony. The affidavit of Maria Teresa Cui (Exh. "5"), does not corroborate Lupian's statement because it is hearsay. She stated she merely learned of the said utterance from reliable sources. As to the following utterance of complainant, 'Noling is getting thinner and our turn won't be long', we find nothing defamatory in the statement and certainly cannot constitute loss of trust and confidence. So, with the act of complainant in inciting John Cui and Ramon Cui, Jr. to file a case against respondent with the NLRC which respondent Romulo Cui, claimed to be the last straw that broke the camel's back (See again Exh. "1" or "C") and which made the latter finally lose trust and confidence in complainant. We find nothing wrong if a man advises another to exercise a civil right. We equally find nothing offensive in complainant's being a witness against respondent Romulo Cui, in a case pending before the Provincial Fiscal of Cebu as the former is merely exercising a civil obligation." (pp. 17-20, Rollo)

We now come to the third issue raised by petitioners during the oral argument as mentioned earlier questioning the jurisdiction of the National Labor Relations Commission over the parties. Petitioners' argument is meritless. Although Hospicio de San Jose de Barili is a public charitable institution, it is not a government instrumentality or agency and its employees including private respondent are not embraced within the coverage of the civil service and are not governed by the Civil Service law, rules and regulations. Furthermore, after petitioners submitted to

the jurisdiction of the National Labor Relations Commission and presented their evidence and sought affirmative relief therein, they cannot now rightfully question the National Labor Relations Commission's jurisdiction.

WHEREFORE, premises considered, there is no question that private respondent is entitled to reinstatement with damages. However, We give due consideration to the recommendation of the Office of the Solicitor General that the payment of backwages be limited to two (2) years only, and that the award of P20,000.00 as compensatory damages and P10,000.00 as exemplary damages be reduced to P10,000.00 and P5,000.00 respectively, as We recognize the fact that private respondent was in the employment of petitioners for less than a year (or ten [10] months only) and that he was not prevented from obtaining gainful employment elsewhere and considering further that the capacity to pay of the petitioner Hospicio which is a public charitable institution has not been established. Thus, with the modification aforementioned, the assailed decision is hereby **AFFIRMED**. The Petition is hereby **DISMISSED** for lack of merit.

SO ORDERED.

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

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