

**AMBRAQUE INTERNATIONAL PLACEMENT & SERVICES,
PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION,
PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION AND
RUBEN GANDIA, RESPONDENTS.**

G.R. No. 77970. January 28, 1988

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This is a Petition for certiorari under Rule 65 of the Rules of Court. It seeks the annulment of a Decision of the National Labor Relations Commission.

The record of the case discloses that the herein petitioner Ambraque International Placement & Services is a manpower recruitment agency duly organized under the laws of the Philippines. It is engaged in the recruitment of Filipino workers for employment in Riyadh, Saudi Arabia. Its principal in Saudi Arabia is the Al-Jazirah Al-Arabia Co., Ltd. The recruitment agency maintains an office in Ermita, Manila.

The employment agency recruited the services of the herein private respondent Ruben J. Gandia. He was hired to work as a heavy equipment driver in Saudi Arabia for two years with a monthly salary of U.S. \$300.00 effective upon the commencement of his work abroad. He had worked in Saudi Arabia before.

As arranged by the agency, the private respondent left for Saudi Arabia on February 24, 1983. He arrived at his destination on February 26, 1983. On March 4, 1983, or five days later, he was repatriated to the Philippines.

On March 22, 1983, the private respondent filed a Complaint with the Philippine Overseas Employment Administration (POEA) against the recruitment agency and its principal for breach of contract. He also sought the payment of his wages for the period covered by the contract of employment.

In his Position Paper filed with the POEA, the private respondent alleged that he, together with the other workers who arrived at the job site with him, were made to sleep in unsanitary quarters. He called the attention of the officials concerned regarding the matter and requested for more suitable accommodations. On March 4, 1983, he was repatriated. Thus, the private respondent maintains that the termination of his employment was without cause and, therefore, illegal.

In response to these allegations, the petitioner recruitment agency alleged that the private respondent was validly dismissed from work inasmuch as he displayed arrogance, stubbornness and belligerence towards his employer. The petitioner also stressed that the bad conduct exhibited by the private respondent in so short a time forced the principal to repatriate him. The petitioner further alleges that the private respondent did not incur any expense for his recruitment and that the private respondent has an outstanding account with the agency in the amount of P1,000.00.

In support of these arguments, the petitioner submitted photo copies of two telex messages sent by the principal to

the agency regarding the status of the private respondent, as well as a promissory note for P1,000.00 executed by the private respondent in favor of the recruitment agency. The text of the two telex messages are as follows --

"9 Workers have arrive (sic) at Riyadh on Feb. 24, 1983. But one of them Mr. Ruben G. Gandia, Passport No. A0113567 is found to be unsuitable for work and hence he should be returned back (sic) again to Philippine. Thus pls. deduct his flight ticket charges from the total amount (sic)."

and

"Rec. yr. tlx. of today. Pls send us the names and occupations of the remaining workers. Moreover, pls. do not send any worker who has been worked (sic) previously in Saudi Arabia i.e. the worker should be new and not came (sic) to Saudi Arabia before, because this causes much problems to us (sic)."

The first telex message was dated February 27, 1983. The second one was dated March 2, 1983. On the basis of these allegations, and by way of counterclaim, the petitioner sought the payment of the P1,000.00 debt and other related expenses from the private respondent.

In a Decision dated June 17, 1986, POEA Deputy Administrator and Officer-In-Charge Cresencio M. Siddayao held that the dismissal was illegal. The pertinent portions of the said Decision are as follows --

"This Office is convinced that complainant, far from being unsuited for work, arrogant and belligerent, was dismissed from employment only for the reason that he attempted to ask for more comfortable living quarters. It seems improbable that the foreign employer would find complainant unsuited for work after barely four days of stay at the jobsite. Moreover, the negative attributes raised by respondents as a ground for the termination are so sweeping and general, thus effectively raising doubt as to their veracity. Likewise, the foreign employer's subsequent telex message advising the local respondent to send only new recruits instead of workers with previous Saudi Arabian employment experience, the latter causing 'much problem' to the employer, is nothing but a succinct indication that complainant was indeed, terminated for his having complained of the living conditions (sic). In our opinion, the ground relied upon by respondents does not constitute sufficient basis for upholding the legality of the termination. Accordingly, respondents are liable for unjustified dismissal."

The Deputy Administrator was, however, of the view that the counter claim for P1,000.00 was proper there being no proof of payment of the same.

Thus, judgment was rendered holding the recruitment agency and the principal solidarily liable to pay the private respondent the peso equivalent of U.S. \$7,200.00 corresponding to the entire remuneration covered by the employment contract, less the P1,000.00 for the counterclaim. Attorney's fees were also allowed.

The petitioner brought an Appeal to the National Labor Relations Commission where the case was docketed as POEA Case No. L-251-83. The thrust of the Appeal is that there were serious errors in the appreciation of facts on the part of the POEA. The petitioner also maintained that it should not be held solidarily liable with its principal and that the Decision of the Deputy Administrator, if upheld, will seriously undermine the manpower export industry.

In its Decision promulgated on January 30, 1987, the First Division of the respondent Commission dismissed the Appeal for lack of merit.[1] The Commission was of the opinion that the findings and conclusions of the Deputy Administrator are substantially supported by the evidence on record. The petitioner sought a reconsideration of the said Decision but its Motion for Reconsideration was denied by the Commission for lack of merit.[2]

On April 10, 1987, the case was elevated to this Court by way of the instant Petition. The petitioner maintains that the respondent Commission committed a grave abuse of discretion in upholding the Decision of the Deputy

Administrator inasmuch as the said Decision is contrary to the evidence and existing jurisprudence.

As instructed by this Court, the respondents submitted their respective Comments on the Petition.[3] The Solicitor General represented the respondent Commission. The petitioner submitted a consolidated Reply.[4] Thereafter, the case was deemed submitted for decision.

After a careful examination of the entire record of the case, We find the instant Petition to be devoid of merit.

The allegation that the private respondent exhibited disagreeable conduct when he was abroad thus paving the way for his dismissal is a sweeping statement. The allegation is not even accompanied by any elaboration on the matter. If the said allegation were true, then the petitioner would have discussed in detail the circumstances surrounding such disagreeable conduct in order to support its stand. The absence of such vital information casts suspicion on the veracity of the allegation of the petitioner.

As observed by the Solicitor General, the telex messages relied upon by the petitioner do not establish that the private respondent was dismissed from his employment for just cause. Both telex messages are general statements. There is no record that the principal gave additional information on the dismissal. At the most, the second telex message implies that the previous employment experience of the private respondent in Saudi Arabia causes problems to the principal.

The following observations of the Solicitor General are noteworthy --

" . . . Compared to new recruits, private respondent has in his favor the fruits of his past work experiences in Saudi Arabia. Definitely, he must already have acquired sufficient knowledge about the basic cultural and social differences between Saudi Arabia and the Philippines which could help guide his actions and conduct in that foreign country. xxx. Indeed, private respondent's previous work experience in Saudi Arabia could even be one of the qualifications why he was hired by petitioner.

"xxx.

"Moreover, it is very unlikely that private respondent would have been guilty of the negative conduct imputed to him by petitioner. xxx one who goes to the Middle East for employment does so at a great sacrifice. In addition to leaving his family, the worker also has to suffer the cultural shock of living in a society with entirely different customary practices, religion and traditions. But the worker is willing to bear all these just so he could earn money to send back to his family. With this primary aim, the worker knows better than doing anything that would jeopardize his contract of work. xxx.

"xxx.

"xxx his dismissal only stemmed from the fact that he requested, in behalf of his group of contract workers, the representative of the foreign employer to provide them with a more suitable and comfortable place to sleep. It could very well be that because of his (previous work) experience (in Saudi Arabia), private respondent was the most confident and so he agreed to speak for the group. The request was not in anyway illegal or improper. But the foreign employer was not pleased however. It felt uncomfortable with the confidence displayed by private respondent. This is perhaps the reason why it specified in the second telex (message) to petitioner that it should only send new recruits and not experienced workers to Saudi Arabia. xxx. Thus, the foreign employer decided to repatriate private respondent to the Philippines, an act of dismissal which is definitely without just cause and hence illegal."

From the foregoing observations, We have no doubt that the dismissal of the private respondent is illegal.

Finally, the petitioner recruitment agency should be jointly and solidarily liable with its principal as far as this case is concerned. Pursuant to Section 10, Rule V of the Implementing Regulations of the Labor Code, a recruitment agency can be sued solidarily with its principal, to wit --

"SECTION 10.0 Requirement before recruitment. -- Before recruiting any worker, the private employment agency shall submit xxx the following documents:

"xxx.

"(2) Power of the agency to sue and be sued jointly and solidarily with the principal or foreign based employer for any of the violations of the recruitment agreement and the contracts of employment; (Emphasis supplied.)"

On the basis of the foregoing discussions, We are not persuaded that the respondent Commission committed a grave abuse of discretion in dismissing the Appeal taken by the petitioner in POEA Case No. L-251-83. Accordingly, the writ of certiorari sought by the petitioner cannot issue.

WHEREFORE, in view of the foregoing, the instant Petition for certiorari is hereby DISMISSED for lack of merit, with costs against the petitioner.

SO ORDERED.

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

[1] Pages 28 to 31, Rollo. The Decision was prepared by Commissioner Conrado B. Maglaya and was concurred in by Commissioners Edna Bonto-Perez and Rosario Encarnacion.

[2] Pages 32 to 38, Rollo.

[3] Pages 49 to 61 and 65 to 71, Rollo.

[4] Pages 85 to 87, Rollo.

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