

PHILIPPINE NATIONAL CONSTRUCTION CORPORATION (FORMERLY CONSTRUCTION AND DEVELOPMENT CORPORATION OF THE PHILIPPINES), PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FOURTH ...

G.R. No. 83320. February 09, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This is a petition for certiorari filed by petitioner Philippine National Construction Corporation seeking to modify the decision dated November 4, 1987, of the National Labor Relations Commission awarding to private respondent Manreza separation pay despite its finding that he was legally dismissed.

Domingo Manreza was hired by the CDCP in 1972, as a janitor and later prompted to Leadsman, having the main duty of removing and/or changing damaged flexbeams on the expressway. On May 24, 1983, the North Luzon Expressway (NLE) Security Services Investigation and Intelligence unit discovered NLE flexbeams in the house of Alfonso Eusebio in Sipat, Plaridel, Bulacan, and also in the house of Nene Enriquez. Both declared that the items were deposited thereby Manreza and his companions. On June 23, 1983, Foreman Salvador Bautista sent a memo to Manreza asking him to explain within 48 hours why no disciplinary action should be taken against him for alleged violations of the CDCP Code of Employee Discipline. Complainant explained in writing that he and his men merely deposited the NLE properties in the homes of Eusebio and Enriquez temporarily. The case was referred to the Union pursuant to the CBA, which concluded that complainant was merely negligent and recommended suspension for ten to twenty days as penalty. Respondent conducted a separate investigation. On October 7, 1983, the NLE administrative officer issued a memorandum finding the complainant guilty of stealing or unauthorized taking of company property, a violation of Section 7(a)(10) of the CDCP Code of Employee Discipline. It placed the complainant under preventive suspension for thirty (30) days, and thereafter terminated his employment.

Manreza filed a complaint for unfair labor practice and illegal dismissal, with a prayer for backwages, moral damages, exemplary damages, and attorney's fees. After due hearing, Labor Arbiter Ireneo Bernardo directed the petitioner to reinstate Manreza to his former or equivalent position without loss of seniority rights and other benefits, but without backwages. The complaint for unfair labor practice and other claims were dismissed.

Petitioner appealed to the National Labor Relations Commission, which set aside the Labor Arbiter's decision and entered a new one, "finding the dismissal of the complainant (Manreza) to be valid and with just cause. However, in the spirit of compassionate justice, the respondent-appellant is hereby ordered to pay one (1) month pay for every year service. The complaint for unfair labor practice and other claims, being unsubstantiated, are dismissed for lack of merit." (p. 28, Rollo.)

Not satisfied with that decision PNCC filed a petition for certiorari in this Court, alleging that the NLRC gravely abused its discretion in awarding separation pay to the employee despite its own finding that he was legally

dismissed for cause.

The petition is meritorious.

While it is true that in some earlier cases. We held that employees dismissed for cause are nevertheless entitled to separation pay on the ground of social and compassionate justice (*Firestone Tire & Rubber Co. of the Philippines vs. Lariosa*, 148 SCRA 187; *Soco vs. Mercantile Corp. of Davao*, 148 SCRA 526, *Filipro, Inc. vs. NLRC*, 145 SCRA 123), that doctrine was abandoned by this Court in the recent case of *Philippine Long Distance Telephone Co. vs. NLRC and Marilyn Bucay* G.R. No. 80609, August 23, 1988, where we held that:

"x x x henceforth separation pay shall be allowed as a measure of social justice only in those instances where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character. Where the reason for the valid dismissal is, for example, habitual intoxication or an offense involving moral turpitude, like theft or illicit sexual relations with a fellow worker, the employer may not be required to give the dismissed employee separation pay, or financial assistance, or whatever other name it is called, on the ground of social justice. (Emphasis supplied.)

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"The policy of social justice is not intended to countenance wrongdoing simply because it is committed by the underprivileged. At best it may mitigate the penalty but it certainly will not condone the offense. Compassion for the poor is an imperative of every humane society but only when the recipient is not a rascal claiming an undeserved privilege. Social justice cannot be permitted to be the refuge of scoundrels any more than can equity be an impediment to the punishment of the guilty. Those who invoke social justice may do so only if their hands are clean and their motives blameless and not simply because they happen to be poor. This great policy of our Constitution is not meant for the protection of those who have proved they are not worthy of it, like the workers who have tainted the cause of labor with the blemishes of their own character."

Since Manreza was found guilty of dishonesty for having stolen company property and was dismissed for cause, he is not entitled to separation pay.

WHEREFORE, the petition is granted. The decision of the NLRC is modified by deleting the award of separation pay to the private respondent Domingo Manreza.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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