

LEONCITO PACAÑA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND PHILIPPINE PACKING CORPORATION, RESPONDENTS.

G.R. No. 83513. April 18, 1989

Ponente: CRUZ, J.

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CRUZ, J.:

We affirm once again the rule that the decisions of the National Labor Relations Commission are reviewable only in a petition for certiorari under Rule 65 of the Rules of Court and may be reversed only upon a clear showing of a grave abuse of discretion amounting to lack of jurisdiction. Applying this rule, we shall dismiss this petition and uphold the challenged judgment of the public respondent as a proper exercise of the powers conferred upon it by the labor laws.

The petitioner had been in the employ of the Philippine Packing Corporation as a security guard for all of eighteen years when he was implicated on 24 July 1986 in the theft of gramoxone chemicals from the company plant by Bernie Legaspi, a 14-year, old boy who was caught in flagrante on 22 July 1986. This boy said it was the petitioner who had asked him to take the chemicals out of the company compound.[1] One other person, Security Guard Felizardo Adalin, Jr., executed an affidavit to the effect that he had seen the petitioner actually carrying the chemicals two days earlier in a plastic bag.[2] Investigated in the office of the security department of the private respondent, the petitioner admitted his guilt, saying that "my act of giving Belen (the boy's mother) the gramoxone chemicals was committed by me because of pity for her and I was also beguiled by her caresses." [3] He begged forgiveness from the company and asked that he be transferred to another unit away from Belen. A complaint for qualified theft was filed against him in the municipal circuit trial court of Jasaan-Claveria in Misamis Oriental, but this was later dismissed[4] when the petitioner wrote the plantation manager of the PPC and requested that, as he had already admitted the theft, he be allowed to resign without pay and the criminal charge against him be dropped.[5] The prosecution was revived, however, when the petitioner's lawyer wrote the PPC and demanded his client's reinstatement in view of the lapse of the 30-day period of his suspension.[6] He also asked for payment of backpay and other benefits to the petitioner. The information was re-filed on 26 November 1986, in the regional trial court of Cagayan de Oro City.[7]

On this same day, the petitioner filed a complaint for illegal dismissal against the private respondent. As required, the parties submitted their respective position papers. On 22 June 1987, the labor arbiter rendered a decision in favor of the complainant. The respondent was required to reinstate him with full back wages or, if this was no longer possible, to grant him separation pay plus attorney's fees.[8]

Copies of this decision were served on the petitioner on 7 July 1987, and on the respondent on 8 July 1987. The latter appealed to the National Labor Relations Commission on 20 July 1987, the same date on which the complainant moved for a writ of execution on the ground that the decision had become final and executory.[9] In view of the conflicting views on the timeliness of the appeal, the labor arbiter forwarded all the records of the case

to the NLRC for resolution.

The NLRC accepted the appeal. On 12 January 1988, it reversed the decision of the labor arbiter and held that the petitioner had been legally dismissed and so was not entitled to reinstatement and the payment of back wages or separation pay and the other awards.[10] Disagreeing, the petitioner is now before us and faults the public respondent with grave abuse of discretion for sustaining the PPC.

On the question of whether or not the appeal had been seasonably made, we hold in favor of the respondents. It is true that in *Vir-Jen Shipping and Marine Services v. NLRC*,^[11] we interpreted the 10-day reglementary period prescribed by Article 223 of the Labor Code for appealing to the NLRC as referring to calendar and not working days. It is also true that the private respondent filed the appeal on the twelfth calendar day following its receipt of a copy of the appealed decision. It appears, however, that the appeal could not have been filed on 18 July 1987, the tenth calendar day, because this was a Saturday and the offices of the NLRC in Cagayan de Oro City were closed; and neither could it have been sent by registered mail because the post office was also closed. The following day was a Sunday. The appeal was therefore seasonably filed on Monday, 20 July 1987, the earliest day this could have been done after the lapse of the 10-day period.

As for the dismissal, it does not appear that the NLRC erred in holding that there was sufficient evidence to sustain the finding that the petitioner was guilty of stealing the gramoxone chemicals from the company. Indeed there was. The petitioner himself had admitted the offense not once but twice and in writing. He even gave the reason for committing the offense, to wit, he was beguiled by Belen's caresses. He cannot turn back on his own statements now and claim he was unaware of its contents and had been deceived into making them. Even the sequence of events supports the conclusion that he had really admitted his guilt.

The original complaint was withdrawn by the PPC after he had acknowledged the theft and asked for separation without pay but this was revived when his counsel demanded his client's reinstatement and back wages. The original complaint would not have been withdrawn in the first place had he not confessed his offense and asked that the charge be dropped. Apparently, the petitioner had a change of heart after he had consulted a lawyer who advised him to insist instead on his reinstatement.

The petitioner claims that "he was intimidated, coerced, pressured, influenced and threatened to sign" papers prepared in advance by the PPC and "naive, gullible and innocent as he was, petitioner was compelled against his will to sign those papers." It takes more than tautology to prove one's point. The fact is that short of his redundant self-serving statements, the petitioner offers no hard evidence of the compulsion exerted on him and has not even identified any of the persons who allegedly forced him to sign his admissions. Given this infirmity in the petition, the Court has no alternative but to sustain the findings of the respondent NLRC that there was indeed valid reason for separating the petitioner from his employment.

The Court also notes that the offense for which the petitioner was validly separated involves his integrity, which is especially required for the position of security guard. The company had relied on his honesty in the protection of its property but it has turned out that he was not deserving of its confidence. Neither is he worthy of compassion as to deserve at least separation pay for his length of service for as we said in the case of *Philippine Long Distance Telephone Co. v. NLRC*:^[12]

We hold that 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.

A contrary rule would, as the petitioner correctly argues, have the effect of rewarding rather than punishing the erring employee for his offense. And we do not agree that the punishment is his dismissal only and that the separation pay has nothing to do with the wrong he has committed. Of course it has. Indeed, if the employee who steals from the company is granted separation pay even as he is validly dismissed, it is not unlikely that he will commit a similar offense in his next employment because he thinks he can expect a little leniency if he is again found out. This kind of misplaced compassion is not going to do labor in general any good as it will encourage the infiltration of its ranks by those who do not deserve the protection and concern of the Constitution.

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.

WHEREFORE, the petition is DISMISSED, with costs against the petitioner. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, p. 26.

[2] Ibid., p. 32, p. 25.

[3] Id., p. 163.

[4] Id., p. 45.

[5] Id., p. 29.

[6] Id., pp. 40-42.

[7] Id., p. 6.

[8] Id., pp. 53-66. Penned by Executive Labor Arbiter Zosimo T. Vasallo.

[9] Id., p. 67; p. 70.

[10] Id., pp. 77-82. Penned by Commissioner Domingo H. Zapanta with Commissioners Lucas, D.M. and Abella, O.N., concurring.

[11] 115 SCRA 347.

[12] G.R. No. 80609, August 23, 1988.

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