

ANGELITO HERNANDEZ, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION (FIFTH DIVISION), HI-LINE TIMBER CORPORATION AND/OR JAIME MATCHOKA, RESPONDENTS.

G.R. No. 84302. August 10, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

This petition for certiorari seeks to annul the decision of the Fifth Division of the National Labor Relations Commission (NLRC), on the ground that the same was rendered with grave abuse of discretion amounting to lack or in excess of jurisdiction.[1] The assailed decision is a reversal of the findings of Labor Arbiter Ireneo B. Bernardo[2] that herein petitioner Angelito Hernandez was illegally dismissed from employment.

The facts leading to this petition are as follows:

On September 23, 1985, petitioner Angelito Hernandez filed a complaint for illegal dismissal against private respondents Hi-Line Timber Corporation (HI-LINE) and/or Jaime Matchoka docketed as Case No. 9-2409-85 with the San Fernando, Pampanga Regional Office of the then Ministry of Labor and Employment.

In his position paper, petitioner alleges that he was hired as a truck driver by respondent HI-LINE in 1952 until 1954 when he resigned. In 1979, he was rehired by HI-LINE to work as a driver and utility man, i.e. kiln drier, fixer, welder but was summarily dismissed from his employment on August 30, 1985.

Petitioner, for his part, relates the events leading to his dismissal as follows:

"On August 28, 1985 at about 8:30 AM, complainant and Jose Mendoza, Jr. an employee assigned at the respondent's office caused the vulcanizing of the tires of the ten-wheeler truck being operated by him in hauling wood. At about 1:00 in the afternoon, Johnny Matchoka, a foreman, instructed some of his men to load kiln dried mayapis wood to the truck to be transported to Luzon Mahogany Corp. at Malinta, Valenzuela, Metro Manila. (After the cargo was unloaded in Malinta), the truck was filled anew with wet mayapis wood but after the same was loaded with four bundles, complainant noticed that one of its differential tires bulged out and advised the foreman in charge thereof to limit his charge to five bundles only.

When he reached the company's compound at Wakas Bocaue, Bulacan he found out that another differential tire installed at the left rear was flat and called the attention of the foreman so that he can effect the necessary repair of the same xxx.

On August 28, 1985, xxx he was summoned by Mr. Matchoka xxx to pay the two tires for P7,000.00 each otherwise he will be dismissed. That being the sole breadwinner for seven (7) persons xxx he pleaded that the amount be just deducted from his salary regularly but the manager turned deaf ears, and told him to get his 13th month pay xxx plus his pay for the trip and salary unpaid. That he was required by the manager's secretary Perseveranda Natividad to sign a document confessing that he replaced the tires with used ones and when he refused, another paper was prepared stating that he voluntarily resigned and that he has been paid all his benefits."[3]

On the other hand, private respondents submit the following version as their statement of facts:

"On 26 August 1985, his (complainant's) co-employee Danilo Vergara noticed something unusual in the appearance of one tire on the rear left side of the ten-wheeler truck with plate no. NJE-216 (T-Pil. '85) assigned to the complainant. Vergara saw a smaller and older tire attached to the differential. He found out also that its serial no. was already erased. Vergara reported the matter to the management. xxx.

On 27 August 1985, complainant was given a letter by management to appear on 30 August 1985 at 2:00 PM at the office of the manager to explain his side and hear the witnesses against him. Complainant refused to receive and acknowledge this letter.

Prior thereto, the manager confronted the complainant with the report, at first, the latter denied the charge but later on admitted his guilt and requested that the amount of the tire be deducted from his salary.

On 29 August 1985, the complainant requested the corporation to pay him incentive leave pay and 13th month pay as he was leaving the company already. xxx.

Complainant did not report for duty anymore. He also intentionally did not appear anymore at the hearing scheduled by respondent's manager in the latter's office on 30 August 1985 at 2:00 PM. It was taken as a waiver of his right to such investigation.

Thereafter, in a letter which the complainant likewise refused to receive and acknowledge, his services was severed. xxx.

On 30 August 1985, the matter was reported to the Bocaue Police Station xxx.

As a consequence, Criminal Case No. 6924 for Qualified Theft was filed by the Station Commander with the Municipal Trial Court of Bocaue, Bulacan."[4]

In assailing the decision of the NLRC, petitioner argues that there is no substantial evidence to support the conclusion reached by the said Commission. Petitioner contends that the decision is anchored mainly on speculations and suspicions.[5] The issue thus raised is whether or not there is substantial evidence to warrant the dismissal of petitioner from employment without infringing his right to security of tenure.

We are inclined to rule in favor of petitioner.

A careful review of the decision rendered by the NLRC, readily discloses that in upholding the legality of the dismissal of herein petitioner, the Commission relied on the following:

- (a) the criminal complaint for qualified theft filed by private respondents against petitioner;[6]
- (b) the affidavits executed by Jose Mendoza, Jr., Danilo Vergara and Perseveranda Natividad -- all employees of respondent HI-LINE;[7] plus
- (c) the fact that petitioner had easy access to the tire loss since the ten-wheeler truck to which the same was attached was assigned to him.[8]

On the basis of the foregoing, the NLRC concluded that private respondent HI-LINE has a valid reason to terminate petitioner's employment on the ground of breach of trust and/or loss of confidence. Thus, it ruled:

"Loss of confidence as a ground for dismissal does not entail proof beyond reasonable doubt of the employee's misconduct. It is enough that there be some basis for such loss of confidence or that the employer has reasonable grounds to believe, if not to entertain the moral conviction, that the employee concerned is responsible for the misconduct and that the nature of his participation therein rendered him absolutely unworthy of the trust and confidence demanded by his position."[9]

"Loss of confidence" constitutes a "just cause" for terminating an employer-employee relationship. However, in the case at bar, it is Our opinion that private-respondent was not able to establish a sufficient basis upon which "loss of confidence" can be sustained. As adverted to earlier, the decision of the NLRC is premised heavily on the affidavits executed by three of its employees attesting to the fact of loss or replacement of the rear-left tire of the ten-wheeler truck assigned to petitioner. Aside from these affidavits and the criminal complaint for qualified theft - filed almost two months after petitioner had instituted a complaint before the Regional Office of the NLRC for illegal dismissal - no other relevant evidence was presented by private respondents reasonably acceptable or adequate enough to support the conclusion that petitioner probably caused the unauthorized replacement of the tire in question. Even the supposed admission of guilt made by the accused is of doubtful veracity. A reading of petitioner's position paper shows that there is a probability that petitioner might have been forced by circumstances to settle for a compromise. Petitioner is the sole breadwinner of seven persons (six children plus his wife) and the settlement is more acceptable than to lose his job totally.[10]

The burden of proof rests upon the employer that the dismissal is for cause, and the failure of the employer to do so would mean that the dismissal is not justified.[11]

The record is bare of any showing positively linking petitioner to the alleged theft committed. The affidavits executed by private respondents' employees failed to establish a reasonable basis to attribute the loss directly upon petitioner. The affiants attested only to the fact of the unauthorized replacement of a tire attached to the truck assigned to petitioner. This is an accepted and established fact, but to positively link petitioner to the unauthorized replacement on this fact alone is highly speculative. Surely, this would be negating the special emphasis laid down by the Constitution on the protection of working men.[12] Thus, this Court has ruled that "[t]he constitutional guaranty of 'security of tenure' is of paramount importance. It is a right so highly ranked that it should not lightly be denied on conjectures, surmises or speculations." [13]

Additionally, there is much to be desired in the investigation supposedly conducted by Jose Mendoza, Jr., checker/tool-keeper of HI-LINE. The investigation did not establish or help in any manner in the proper determination of the alleged involvement of petitioner. Private respondents did not even present evidence on the nature and extent of the investigation supposedly conducted. If at all, private respondents relied only on what they alleged as the deliberate failure of petitioner to attend the confrontation and investigation they conducted on August 30, 1985, four days after the incident.[14] But even this assertion will fail in the absence of conclusive proof that petitioner was, in fact, notified of the said proceedings.

Thus, the conclusion and eventual decision of HI-LINE finding petitioner guilty of theft and terminating his employment therefrom are erroneous

For dismissal for loss of confidence to be warranted, there should naturally be some basis therefor.[15] Stated otherwise, unsupported by sufficient proof, "loss of confidence" is without basis and may not be successfully invoked as a ground for dismissal.

Finally, in the words of this Court:

"Loss of confidence" as a ground for dismissal has never been intended to afford an occasion for abuse by the employer of its prerogative, as it can easily be subject to abuse because of its subjective nature.[16]

Inasmuch as the charge against petitioner has not been substantiated, the inevitable result is that this Court must declare the dismissal as unwarranted and, therefore, illegal. Considering, however, that the relationship between petitioner and private respondent has been severely strained by reason of their respective imputations of bad faith against each other, this Court believes that to order reinstatement at this juncture will no longer serve any prudent purpose.

WHEREFORE, the petition is GRANTED. The questioned decision of the National Labor Relations Commission dated April 21, 1988 is hereby SET ASIDE, while the decision of the labor arbiter dated October 26, 1987 is hereby affirmed with the modification that petitioner be paid backwages not exceeding three (3) years without any deduction and that petitioner be paid his separation pay in the amount of one (1) month for every year of service. No pronouncement as to costs.

SO ORDERED.

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

[1] Decision of the National Labor Relations Commission dated April 21, 1988 in NLRC Case No. 9-2409-85 entitled "Angelito A. Hernandez, complainant-appellee vs. Hi-Line Timber Corp. and/or Jaime Matchoka, respondents-appellants"; pages 85-91, Rollo.

[2] Pages 71-73, Rollo.

[3] Pages 32-33, Rollo.

[4] Pages 37-39, Rollo.

[5] Page 14, Rollo.

[6] Annex "L" of the petition; page 49, Rollo.

[7] Annexes "I," "J" and "K" of the petition; pages 46-48, Rollo.

[8] Pages 88-89, Rollo.

[9] Pages 88-89, Rollo.

[10] Page 32, Rollo.

[11] PLDT vs. NLRC, 122 SCRA 601 (1983).

[12] The following are the applicable provisions:

(a) "The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare." (Art. II, Sec. 18, Constitution, 1987.)

(b) "The State shall afford full protection to labor, local and overseas, organized or unorganized, and promote full employment and equality of employment opportunities for all.

xxx They shall be entitled to security of tenure, humane conditions of work, and a living wage. xxx." (Art. XIII, Sec. 3, Constitution.)

[13] City Service Corporation Workers Union vs. City Service Corporation, 135 SCRA 564 (1985).

[14] Annexes "E" and "G" of the petition; pages 42 and 44, Rollo.

[15] Corpus vs. Cuaderno, Sr., 13 SCRA 591 (1965).

[16] Acda vs. Minister of Labor, 119 SCRA 306 (1982).

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