

PHILSA INTERNATIONAL PLACEMENT AND SERVICES CORPORATION AND/OR MS. CYNTHIA K. MAGDARAOG AND/OR SAUDI REFRESHMENT AND INDUSTRY COMPANY AND/OR SHIEK ABDUL AZIZ AL KAKI, PETITIONER...

G.R. No. 85588. February 18, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition seeks to set aside the decision of the National Labor Relations Commission (NLRC) dated April 25, 1988, as well as its Resolution dated October 21, 1988, affirming the decision of the Philippine Overseas Employment Administration (POEA), dated October 26, 1987 which disposes as follows:

"WHEREFORE, premises considered, judgment is hereby rendered ordering respondents PHILSA International Placement and Services Corporation and Saudi Refreshment and Industry Company, jointly and severally:

"1. To pay the complainant his earned and unpaid salaries and food allowance for four months (4) and six (6) days in the amount of SR-6,143 or its equivalent in Philippine Currency at the time of actual payment;

"2. To pay to the complainant his salaries for seven (7) months and twenty-two (22) days, i.e., from February 7, to October 1, 1986, corresponding to the unexpired portion of his employment contract in the amount of SR-19,333.33 or its equivalent in Philippine Currency at the time of actual payment;

"3. To reimburse to the complainant the expenses for his deployment and repatriation which was charged to him in the amount of SR-4,735, or its equivalent in Philippine Currency at the time of actual payment; and

"4. To pay to complainant 3% of the total judgment award as and by way of attorney's fees.

"Payment of the above-mentioned sums of money shall be made through this office within ten (10) days from receipt hereof.

"SO ORDERED." (pp. 20-21, Rollo)

The facts of the case are as follows:

On September 30, 1985, private respondent Mario Tibay (hereafter "Tibay") was employed by the Saudi Refreshment and Industry Co. (SRICO), through the Philsa International Services Corporation (Philsa) as quality controller of SRICO for a period of twelve (12) months at a monthly salary of SR 2,500.00. On December 21, 1985, Tibay wrote his employer Sheik Abdul Aziz Kaki, relative to the termination of his contract as follows:

"To: SHEIK ABDUL AZIZ KAKI

Re: TERMINATION OF CONTRACT OF EMPLOYMENT

Sir:

This is to inform you that I am terminating my contract of employment agreement with Saudi Refreshment and Industry Company (SRICO) effective January 21, 1986 on the ground of the following:

1) Violations of contract of employment as follows:

a) Delayed Payment of Salary. As stated on the contract: Section A No. 4: Basic Monthly Salary - Salary shall be paid once a month.

Section B. No. 2:

a) Delayed payment of food allowance or No free food given.

b) No free laundry service.

It's my great pleasure to have worked and stayed with your company.

Furthermore, please arrange my accounts due to me and exit papers for my departure.

Your response and approval is highly appreciated. I remain

Thank you.

Mario Tibay

Quality Controller (Records, p. 192)."
(pp. 22-23, Rollo)

Tibay arrived in the Philippines on February 7, 1986, and on March 3, 1986, he filed a complaint against petitioners Philsa and SRICO for "imposition of excessive fees, non-payment and/or delay in the payment of salaries, payment of interview fee of SR 1010 and placement fee of P9,000.00 by the latter. Tibay sought the refund of both interview and placement fees.

In addition, Tibay also sought the recovery of his unpaid and earned salaries and food allowances for four (4) months and six (6) days in the amount of SR 6,143.00, and the reimbursement of expenses which he allegedly incurred for his repatriation to the Philippines, which amount was forcibly collected from him by SRICO in Saudi Arabia before complainant was released/repatriated to the Philippines (NLRC decision, pp. 23-24, Rollo).

On the other hand, petitioners Philsa and SRICO, while accepting Tibay's resignation from work, nonetheless required him to reimburse the cost of his recruitment in the amount of approximately US\$ 2000.00, premised on the second sentence of par F of the Employment Contract, as follows:

"x x x Should the employee on the other hand terminate his employment at any time without just cause, he shall be liable to the Employer or his representative the cost of his deployment to the jobsite and his repatriation plus other costs that may be incurred due to his unilateral termination." (p. 69, Rollo)

The POEA ruled in favor of Tibay, and declared that his termination of his employment was for a just cause specially where petitioners failed to controvert Tibay's allegations of violation of his contract, likewise premised on par. F of the contract, but on the third sentence as follows:

"The Employee may terminate the contract on grounds of serious insult, inhuman and unbearable treatment accorded the Employee by the Employer and violation by the Employer of the contract and terms and conditions. x x x" (p. 69, Rollo)

Petitioners appealed. The NLRC rendered the disputed decision. It also denied petitioner's motion for reconsideration.

Hence this petition assigning the following errors:

- Public respondent erred and committed grave abuse of discretion in upholding the award of SR 6,143 in salaries and food allowances for 4 months and 6 days when the private respondent had only worked for 3 months and 21 days.
- The public respondent erred and committed grave abuse of discretion in upholding the award for salaries corresponding to the residual period of the contract.
- The public respondent acted with manifest bias and partiality. Petitioners were denied a fair hearing.

On May 10, 1989, We issued a temporary restraining order against the POEA alias writ of execution dated April 4, 1989.

As correctly pointed out by NLRC, the issue in this case boils down to whether or not there was a valid reason or just cause for terminating Tibay's employment contract.

We agree with the NLRC that the employment contract was validly terminated, premised on the third sentence of par. F of the employment contract. Thus, in his position paper, Tibay stated:

"x x x that from the time he started to work under respondent SRICO on September 30, 1985, up to his return to the Philippines on February 7, 1986, his salaries for October, November, December 1985, January 1986 and February 6, 1986 as well as his food allowances, were not paid except the amount of SR 5,887.00 as salary and SR 300.00 as food allowance only; that per the Employment Contract, his monthly salary shall be paid once a month but SCRICO (sic) failed and refused to pay his salaries and other benefits due him despite his repeated demands; that because of the non-payment of his salaries and food allowance which constitute a serious violation of his employment contract, he was forced to terminate his contract of employment, for if he stayed longer with SCRICO (sic), he and his family would surely die of starvation; that per contract of employment (Par. B-2), he is entitled to a food allowance of US \$100.00 or its Saudi Riyals equivalent per month but no free food was ever given by respondent SCRICO (sic) and complainant survived only because of doleouts and charities from friends who lent him money; that under the said contract, SCRICO (sic), was expected to provide free laundry services but did not do so; that because of the hardship that complainant had suffered during his four (4) months of employment with SCRICO (sic), which he could no longer endure, he decided to terminate his employment contract per letters dated December 19, and 21, 1985 (Annexes "D" and "D-1") addressed to Sheik Abdul-Aziz Kaki, Managing Director SCRICO (sic); that he called the attention of his employer to the violations committed against the Ministry of Health's standard procedure for syrup making and preparations because during his employment he discovered that most of the concentrates, (coke, lemon, orange and strawberry) were mostly expired and all of them lost some of their chemical properties but they ignored him, that being the Quality Controller, complainant felt that he may be held responsible if an inquiry is to be made, because his predecessor had already been prosecuted and imprisoned for such violations committed by SCRICO (sic)." (NLRC Decision, pp. 23-24, Rollo)

Petitioners' contention that Tibay resigned is not correct because Tibay's letter clearly stipulated that he was "terminating my (his) contract of employment for x x x violation of contract."

As to whether in fact there was such a violation of contract as narrated by Tibay, We agree with the Solicitor General that the NLRC made a clear finding that just cause for the termination existed. This was not controverted by petitioners. Hence, this finding must be upheld and respected, for findings of fact of quasi-judicial bodies, like the NLRC, if supported by sufficient evidence on record are conclusive. In the latest case of *UFE v. The Honorable NLRC and Nestle Phils. Inc.*, G.R. No. 91025, December 19, 1990, citing *Palencia v. National Labor Relations Commission* (G.R. No. 75763, August 21, 1987, 153 SCRA 252), We stated that the findings of fact of the then Court of Industrial Relations (now NLRC) are conclusive and will not be disturbed. Thus:

"Following a long line of decisions this Court has consistently declined to disturb the findings of fact of the then Court of Industrial Relations whose functions the NLRC now performs. [Pambusco Employees' Union Inc. v. Court of Industrial Relations, 68 Phil. 591 (1939); Manila Electric Co. v. National Labor Union, 70 Phil. 617 (1940); San Carlos Milling Co. v. Court of Industrial Relations, 111 Phil. 323 (1961), 1 SCRA 734; Philippine Educational Institution v. MLQSEA Faculty Assn., 135 Phil. 282 (1968), 26 SCRA 272; University of Pangasinan Faculty Union v. University of Pangasinan and NLRC, G.R. No. L-63122, February 20, 1984, 127 SCRA 691]. The findings of fact are conclusive and will not be disturbed in the absence of a showing that there has been grave abuse of discretion. [Philippine Educational Institution v. MLQSEA Faculty Association, 26 SCRA 272, 276] and there being no indication that the findings are unsubstantiated by evidence [University of Pangasinan Faculty Union v. University of Pangasinan and NLRC, G.R. No. 63122, February 20, 1984, 127 SCRA 694, 704]."

Corollarily, factual findings of the POEA as upheld by the NLRC must likewise be respected. Thus, the petitioners failed to controvert Tibay's allegations that "while the letter of private respondent dated December 21, 1985 (Annex "A") stated that he is terminating his contract of employment 'effective January 21, 1986', his foreign employer still required him to work until February 6, 1986, as evidenced by the fact that he was only able to leave the site and depart February 7, 1986. This fact is further bolstered by his letter dated December 19, 1985 (Annex "B") wherein his intended date of contract termination was not acted upon by SRICO promoting him to reiterate it in his December 21, 1985 letter." (NLRC Decision, p. 149 Rollo)

Hence, the POEA award of SR 6,143 to Tibay (corresponding to unpaid salaries and food allowances) did not amount to double payment, nor result in unjust enrichment. As pointed out by Tibay in his position paper:

"7. That from the time complainant started to work under respondent SCRICO (sic) on September 30, 1985 up to his return to the Philippines on February 7, 1986, his salaries covering the periods October, November, December, 1985, January, 1986 and February 1-6, 1986, as well as his food allowances were not paid by his employer SCRICO (sic) except the amount of SR-5,887 as salary and Sr-300.00 as food allowance only. Said unpaid salaries and food allowance are itemized below, to wit:

a) October, November, December, 1985,
January 1986 & 6 days (Feb. 1986) or
4 months and 6 days

SR-10,500.00

b) Food Allowances (US\$100 x 5 x SR-3.66)

1,830.00

Total

SR-12,330.00**

Less: Actual amount received by
complainant upon his return to the
Philippines (SR-5,887* + SR300*)

6,137.00*

Total Amount - unpaid salaries and food
allowances for 4 months and 6 days

SR-6,143.00***'

"It is therefore clear from the above that there could be no double payment as alleged because the amount of SR-5,887.00* together with SR-300.00* as food allowance, or a total of SR-6,187 .00* were deducted from private respondent's total claims of SR--12,330.00**, resulting in the net amount of SR-6,143.00***." (pp. 149-150, Rollo)

Again, salaries corresponding to the residual period of Tibay's contract as well as his repatriation expenses, must also be upheld. The Solicitor General observed:

"Since private respondent was forced to resign because of petitioners' failure to fulfill their part of the contract, petitioners are liable for his wages and other benefits for the unexpired period of his employment, as well as for the expenses for his repatriation to the Philippines.

"An employee who quits his work because of the employer's unreasonable, humiliating or demeaning actions, or because conditions of employment had turned out to be so unbearable as to render continued work impossible, is deemed to have been illegally dismissed. x x x.

"When the employer Illegally dismisses his employee holding an appointment for a definite period, he is liable for the employee's wages for the unexpired period. (Roxas, et al. v. Phil. Glazing, et al. ITIRB 724; Logan v. Phil. Acetylene, 33 Phil. 178; Best v. Lizarraga Hermanos, 37 Phil. 491; Knust v. Morse 41 Phil. 185; Wallem (Phil) Shipping v. Ministry of Labor 102 SCRA 535). x x x." (pp. 90-91, Rollo)

Thus, the NLRC ruled:

"Respondent-appellants' (Petitioners) assignment or errors assailing the awards for salaries and food allowances for four (4) months and six (6) days, salaries corresponding to the residual period of the contract, and payment of SR 4,735 corresponding to expenses for deployment and repatriation of the complainant deserves no merit for they are the legal and necessary consequences of the breach of 'contract of employment' by the respondent-appellants, for which they are bound to suffer. x x x." (pp. 28-29, Rollo; emphasis ours)

We likewise agree with the NLRC when it held Philsa, as recruitment agency jointly and solidarily liable with the overseas employer, SRICO for the breach of Tibay's employment contract (Manuel S. Catan, et al. v. NLRC, et al., G.R. No. 77297, April 15, 1988; 160 SCRA 691).

ACCORDINGLY, the petition is hereby dismissed and the decision appealed from is AFFIRMED. The temporary restraining order issued on April 4, 1989 is hereby LIFTED. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

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