

ARTURO S. LAGNITON, SR., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, HON. ISABEL P. ORTIGUERRA AND PLUM FEDERATION, RESPONDENTS.

G.R. No. 86339, February 05, 1993

Ponente: CRUZ, J.

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CRUZ, J.:

On August 18, 1986, the private respondents filed with the MOLE a complaint for illegal dismissal against petitioner Arturo S. Lagniton, Sr., proprietor of a company manufacturing shoes and other leather products. They prayed for reinstatement with back pay and payment of the emergency cost of living allowance, the 13th month pay, and the incentive leave pay.

The complainants claimed in their position paper that Lagniton notified them that their services were no longer needed because of the mechanization of the plant. They nevertheless disregarded the notice and continued reporting for work until they were definitely told on August 11, 1986, that they were all dismissed. They were warned not to come back.

In his defense, Lagniton argued that complainant Generoso Ambrosio was not employed by the company but a mere sub-contractor. Even if considered a regular employee, he was nevertheless validly dismissed because of his poor workmanship, which amounted to serious misconduct or gross and habitual neglect. The other complainants although concededly employees, were not dismissed but simply discontinued reporting for work beginning August 11, 1986, and thus abandoned their employment.

On September 30, 1987, Labor Arbiter Isabel P. Ortiguerra rendered a decision[1] holding that Ambrosio was an employee of the company because his work as a sole-stitcher was necessary to its business and that he worked regular hours under its supervision and control. He and the other complainants, whose status as regular employees was not questioned, had indeed not abandoned their work but were in fact illegally dismissed by Lagniton. Accordingly, the decision disposed as follows:

WHEREFORE, premises considered: the respondents are hereby directed jointly and severally as follows:

1. To pay complainants' separation pay computed at ½ month pay for every year of service, a fraction of at least six (6) months being considered as one whole year;
2. To pay all the complainants their claims for emergency cost of living allowance, thirteenth month pay not barred by the prescriptive period of three (3) years.

SO ORDERED.

This decision was affirmed in toto by the NLRC in a resolution dated September 14, 1988,[2] and the motion for its reconsideration was denied on November 25, 1988.[3]

In the petition now before us, it is contended that the NLRC and the Labor Arbiter committed grave abuse of

discretion in finding that the private respondents were illegally dismissed and were entitled to separation pay and the ECOLA.

The petitioner no longer insists on his original challenge to Ambrosio's status and has accepted the finding of the public respondents that Ambrosio is a regular employee. Nevertheless, Lagniton maintains that Ambrosio and the other complainants were not dismissed but simply walked out of their work by not reporting on August 11, 1986, and thereafter.

Lagniton denies ever having threatened the private respondents with bodily harm and contends that, with the present militancy of labor, he could not have done this without protest from the employees. There was no such protest in the complaint they filed. He also points out, to show that he had not dismissed any of the complainants, that during the proceedings before the Labor Arbiter he actually offered to admit them back. They refused, preferring to demand their separation pay instead.

The petitioner raises questions of fact that we do not have to review in this petition. Their resolution by the public respondents on the basis of the evidence submitted to them is accepted by this Court as final, there being no showing that it is flawed with grave abuse of discretion.

The Court takes special note of the fact that the complaint for illegal dismissal was filed only seven days after the complainants allegedly abandoned their work on August 11, 1986.[4] Such dispatch in protesting their separation belies the claimed abandonment. We also agree that given the hardship of the times, the complainants would not simply have left their work unless they were transferring to other employment offering better terms and conditions. There is no evidence of such transfer.

As it has been established that the workers did not abandon their work, it follows that their dismissal was illegal for lack of notice and hearing. The facts, as asserted by the complaint and verified by the public respondents, show that the complainants were summarily dismissed when they were simply told not to report anymore for work because their services were no longer needed. The record does not show that any charge was filed and proved against them in conformity to the procedure laid down in the Labor Code. They are therefore entitled to reinstatement under Article 279 of the Code.

The petitioner now avers that having prayed for reinstatement in their complaint, the private respondents cannot now change their stance and opt for separation pay instead. After all, he was willing to re-admit them, as he had indicated earlier. His conclusion is that they are bound by the prayer in their complaint and so should accept reinstatement instead of demanding separation pay.

It appears that relations between the petitioner and the complainants have been so strained that the complainants are no longer willing to be reinstated. As such reinstatement would only exacerbate the animosities that have developed between the parties, the public respondents were correct in ordering instead the grant of separation pay to the dismissed employees in the interest of industrial peace.

On the question of the ECOLA, the position of the petitioner is that the complainants (who did not have fixed salaries and were paid by the piece) are not entitled to this benefit because it is available only to workers earning less than P1,500.00 a month. His contention is that since, by the complainants' own admission, they were earning an average of P1,000.00 a week, they are clearly not covered by P.D. 1634.

It is true that under that decree, only workers earning a monthly salary of not more than P1,500.00 may claim payment of the ECOLA. However, the figure cited by the petitioner represents only the peak income of the workers and does not reflect their monthly pay during the lean seasons, when they did not produce as much and so earned less, at about P350.00 a week or P55.00 a day. On the average, as the NLRC determined, the complainants

were receiving less than P1,500.00 a month and so came under the provision of the decree. We also accept this factual finding of the public respondents.

The days are gone when the employee was at the mercy of his employer and could be dismissed for the flimsiest reasons or for no reason at all. The tyrannical employer is an anachronism in this enlightened era. The employee today, once defenseless and often oppressed, has found new strength in the protection of the law and the proud realization that he performs a symbiotic role with the employer in their common enterprise. As such, he must be treated not as a disdained subordinate but with the respect and fairness, if not affection and gratitude, that is due to an equal partner.

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

Padilla, Griño-Aquino, and Bellosillo, JJ., concur.

[1] Rollo, pp. 19-28.

[2] Ibid., pp. 29-35.

[3] Id., p. 36.

[4] Id., pp. 37-38.

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