

ROGELIO O. GARCIA, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND MANILA ELECTRIC COMPANY, RESPONDENTS.

G.R. No. 88243, December 22, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

This petition for certiorari challenges the decision of the National Labor Relations Commission reversing the decision of the Labor Arbiter which directed petitioner's reinstatement in respondent company.

The petitioner, Rogelio Garcia, was employed in the Manila Electric Company since April 22, 1968, starting as a lineman-trainee until he rose to the rank of Leadman Grade III, assigned to MERALCO's North Distribution Division in Valenzuela, Metro Manila. His primary function was to attend to customers' complaints regarding defective meters and metering installations.

On November 14, 1985, at around 10:45 o'clock in the morning, accompanied by a subordinate, Rogelio Tayag, he responded to a customer's complaint (docketed as Complaint No. CR 1-11-1805) of "power failure" at No. 27 Santiago St., Navotas, Metro Manila. When Garcia pulled out the electric meter to inspect it, he discovered that one of the screws of the potential link was missing, indicative of meter-tampering. A customer found guilty of meter-tampering would be penalized by a fine of P10,000. The petitioner informed complainant, Leticia De Jesus, that the meter would have to be replaced. Mrs. De Jesus introduced herself as the wife of Rodolfo De Jesus, the security supervisor of Eagle Security Agency which guards MERALCO's Ortigas Office. She requested Garcia and Tayag to make the replacement of her electric meter at 3:00 o'clock in the afternoon of that day when her husband would have arrived home from work. Garcia agreed to accommodate Mrs. De Jesus "considering that her husband is in a way a Meralco man as he is the supervisor of the agency guarding MERALCO" (p. 13, Rollo). Nevertheless, he called his home base to report that De Jesus' electric meter would have to be replaced.

Garcia and Tayag returned to the De Jesus house at around 2:30 o'clock in the afternoon to replace the tampered meter bearing number 33 SUN-92772. Garcia parked the pick-up truck and instructed Tayag to install the new meter bearing number 33-SYN-46293, while he waited inside the truck to guard their tools. After the new meter had been installed, power was restored in the De Jesus residence. Tayag informed Garcia that Mrs. De Jesus would like him to come inside her house as she had other complaints. However, as soon as he entered the house, a man approached him and inserted some paper bills inside his hip pocket. Three men suddenly appeared, grabbed him by the arms, took the paper bills consisting of five P100 bills from his pants pocket, and brought him to the office of the MERALCO's Patrol Division on Ortigas Avenue for investigation. The three men were later identified as Kim Laroza, Emilio Diesta and Eddie Banaag, all from the MERALCO Security Inspection Office. The five P100 bills bearing Serial Numbers KL 295608, GT 812431, JY 977041, LC 78585 and AM 787927, were allegedly paid to Garcia in exchange for his not reporting the tampered meter for laboratory examination or induce him to conceal it from MERALCO.

An administrative investigation of Garcia was conducted by Venturado Beran under the supervision of Atty. Pablo Martin of MERALCO's Legal Department. They recommended Garcia's dismissal from the service, pursuant to the Code of Employee Discipline, particularly Section 7, paragraph 8 thereof, which imposes the penalty of dismissal from employment "for dishonesty by soliciting or receiving money, gift, share, percentage or benefits from any person, personally or through the mediation of another, to perform an act prejudicial to the company." (p. 15, Rollo.) On July 25, 1986, Garcia was dismissed with forfeiture of all benefits and privileges.

On August 26, 1986, he filed a complaint for illegal dismissal in the Arbitration Branch of the Department of Labor and Employment. At the hearing before the Labor Arbiter, Leticia De Jesus alleged in her Affidavit that when Garcia informed her that meter tampering carried a big penalty, she instructed her nephew, Abelardo Herrera, to ask Garcia what they could do about the meter defect and Garcia allegedly told her that for P500 he could take care of the problem by not revealing his findings in his investigation report to MERALCO; that she requested Garcia and Tayag to return in the afternoon of the same day as she would first inform her husband about the matter; that her husband was infuriated to learn that a MERALCO crew was extorting money from his wife, so he reported the matter to the Patrol Division which dispatched an entrapment team to arrest Garcia.

On the other hand, in his Sinumpaang Salaysay, Garcia alleged that he was framed to cover up his discovery of meter-tampering in De Jesus' house.

On May 18, 1988, the Labor Arbiter rendered a decision finding that Garcia was "framed" and, declaring that his dismissal was illegal, MERALCO was ordered to reinstate him to his former or equivalent position with full backwages, without loss of seniority, plus attorney's fees equivalent to 10% of the judgment.

MERALCO appealed to the National Labor Relations Commission which reversed the labor arbiter's decision and dismissed the complaint. Garcia unsuccessfully filed a motion for reconsideration of the NLRC decision. Hence, this petition for certiorari alleging that the NLRC acted with grave abuse of discretion in reversing the decision of the labor arbiter.

There is merit in the petition.

What is clear from a consideration of all the relevant facts and circumstances surrounding this case, is that the screw of the potential link of the De Jesus' electric meter was indeed missing, a sure sign that it had been tampered. This was established not only by the petitioner himself but also by his workmate, Tayag. It was also admitted by Mrs. De Jesus who was present when the electric meter was pulled out for inspection. Furthermore, the records show that petitioner reported the defective meter to his home base, upon its discovery, to justify its replacement with a new one. However, in anticipation of MERALCO's possible adverse action against him, the security supervisor turned the tables on the petitioner by arranging his entrapment for extortion.

The decision of the NLRC does not reveal sufficient evidence of dishonesty to justify the petitioner's dismissal from the service. Having been informed by Mrs. De Jesus herself that her husband was the security supervisor in MERALCO's Ortigas office, it would have been suicide for the petitioner to attempt to blackmail her. The alleged extortion attempt is not credible considering that Garcia had in fact already reported the defective meter to his home base in the morning and obtained a replacement for it in the afternoon, before the entrapment. Besides, Garcia's subordinate, Tayag, denied the charge against Garcia.

Petitioner's right to security of tenure may not be jeopardized except by clear and convincing evidence of dishonesty, which the private respondent failed to produce. A doubtful accusation should not be allowed to overshadow petitioner's unblemished record of service for eighteen (18) years, and the promotions he had received in the course of his employment.

WHEREFORE, the assailed decision of the NLRC is reversed and that of the Labor Arbiter is reinstated. The private respondent is ordered to reinstate the petitioner to his former or equivalent position in the company with full backwages for a period of three years, without qualification or deduction, and without loss of seniority rights (Asphalt and Cement Powers, Inc. vs. Deodegario, G.R. No. 74563, June 20, 1988; CLLC E.G. Gochangco Workers Union, et al. vs. NLRC, G.R. No. 67258, May 30, 1988). Costs against private respondent.

SO ORDERED.

Narvasa, Cruz, Gancayco, and Medialdea, JJ., concur.

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