

EDWIN DEL CARMEN, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, RESPONDENTS.

G.R. No. 93413. October 28, 1991

Ponente: REGALADO, J.

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REGALADO, J.:

This petition for certiorari seeks to annul and set aside the decision of the respondent National Labor Relations Commission (NLRC) in NLRC NCR Case No. 10-4441-88, promulgated on February 23, 1990, dismissing petitioner's complaint for illegal dismissal against private respondent Philippine Long Distance Telephone Company (PLDT).

Culled from the records of this case, the findings of public respondent and the synthesis thereof by the Solicitor General, the following antecedent facts are duly established.

On April 18, 1988, petitioner was apprehended near his house at No. 14-C, Road 3, Project 6, Quezon City by Feliciano Ramones, Jr., private respondent's security inspector, with one (1) roll of telephone drop wire owned by PLDT and valued at P1,400.00.

On June 1, 1988, a letter-memorandum was sent to petitioner by respondent PLDT requiring him to explain in writing why he should not be dismissed from the service for his alleged involvement in the illegal purchase of drop wires and jacketed wires from his co-installers and in attempting to deliver the roll of telephone wire to his house in violation of company rules and regulation.

Upon the request of petitioner himself, private respondent conducted an investigation where petitioner was given a chance to adduce evidence to the contrary. Subsequently, on September 6, 1988, petitioner was dismissed by private respondent for serious misconduct and fraud.

Petitioner then filed a complaint for illegal dismissal and unpaid wages against private respondent.

Petitioner claims therein that on April 27, 1988, he and a co-employee, Lauro de Vera who is also a PLDT Installer/Repairman (JG-4), were on their way to the Quezon City Elliptical Road aboard the service vehicle assigned to the latter to service the telephone facilities of the Department of Agriculture. Before reaching their destination, petitioner requested De Vera to drop by his (petitioner's) residence, for the purpose of dropping off his bag of clothes which he was bringing home from San Fernando, Pampanga where he earlier spent the previous night.

De Vera agreed and, upon reaching petitioner's house, petitioner allegedly unloaded the telephone drop wire which was resting atop his travelling bag. After bringing the bag inside the house, he came back to reload the wire and he was in the act of doing so when Feliciano Ramones, Jr. arrived and took the telephone drop wire from him and apprehended him for the alleged "act of delivering one (1) roll of telephone drop wire" at his residence. Thereafter, both petitioner and De Vera were brought to the PLDT Security Department where they were

investigated and their declarations taken. However, both refused to affix their signatures thereon.

After said investigation, petitioner went back to his residence with Antonio Juliano, Leonardo Balmonte and Jose P. Alcala where petitioner was allegedly forced to allow these three to go inside his house to search for additional evidence. Inside his house, they found one (1) telephone instrument, type 802, colored black; two (2) master set telephone instruments; one hundred (100) feet of parallel wire; and fifty (50) feet of jacketed wire. Petitioner insisted that these were left for safekeeping inside his house since he was not assigned any service vehicle and which practice was allegedly not prohibited by the company. In fact, petitioner claimed that it was only on April 29, 1988, following a so-called Tailboard Meeting, when such practice was prohibited.

Private respondent's version of the controversy is that on April 27, 1988, at about 8:17 A.M., petitioner was apprehended by Feliciano Ramones, Jr., PLDT Security Inspector, in the act of delivering one (1) roll of telephone drop wire valued at P1,400.00 to his residence; that said telephone wire was taken from service vehicle No. 75 which was then parked in front of petitioner's house; that petitioner refused to turn over the telephone wire as he claimed ownership over the same and it was only after grappling for possession thereof that Ramones was able to get hold of the telephone wire; that another security inspector, Danilo San Juan, who was with Ramones called for security reinforcement and, shortly thereafter, security personnel Artemio Juliano, Leonardo Balmonte, Danilo Carrasco, Jr. and Edwin Marcial arrived; that Artemio Juliano, together with Jose Alcala who had also arrived by then, entered petitioner's house after asking permission to do so and therein they found the three (3) telephone sets, the one hundred (100) feet long parallel wire and fifty (50) feet long jacketed wire.

Petitioner was also accused by private respondent of engaging in the illegal buying of drop wires and jacketed wires from his co-installers and repairmen which he deposited in his residence for disposal and personal gain.

After due hearing and after considering the parties' Comment and/or Reply to each other's position paper, on April 28, 1989 Labor Arbiter Jose G. de Vera rendered a decision^[1] declaring the dismissal of petitioner illegal and unjust and ordering private respondent to reinstate him to his former or substantially equivalent position with all the rights and privileges appertaining thereto including backwages from September 6, 1988 until his actual reinstatement.

Private respondent appealed said decision to public respondent NLRC which, in its decision of February 23, 1990 mentioned at the start of this opinion, set aside the labor arbiter's decision and dismissed the case on the following considerations:

"We cannot sustain this view. Subsequent events showed that the security inspectors of respondent found the following articles inside the house of complainant; One (1) telephone instrument type 802 color black; two (2) master set telephone instrument(s); One hundred (100) feet parallel wire and 50 feet jacketed wire. All said articles were owned by respondent company. The Labor Arbiter was therefore in error to conclude that the intention of complainant relative to said drop wires was unclear.

"On the contrary, it appears distinctly clear to us, by the overt acts of complainant, that he intended to take said drop wires inside his house had he not been timely apprehended. This is pure and simple fraud on the part of complainant. This is one of the just causes in terminating employment as provided for by paragraph c, Article 282 of the Labor Code."^[2]

Petitioner's motion for reconsideration having been denied by the NLRC in its resolution^[3] dated April 30, 1990, he is now before us through the present petition.

It is the main contention of petitioner that respondent NLRC committed a capricious and whimsical exercise of judgment equivalent to grave abuse of discretion in reversing the findings of the labor arbiter and in dismissing petitioner's complaint.

We find said submissions untenable.

A review of the records shows that there is ample evidence to support the findings of the NLRC. There is no dispute that all of the equipment and materials found in the possession of petitioner belong to respondent PLDT. Petitioner's claim that it is normal for an installer like him to be in possession of these materials, is not sufficient to relieve him of any liability. Petitioner's I & R Daily Material Consumption and Work Report, which is the record of the daily balance, used and requisitioned supplies and materials by the installers for the period covering April 18 to 26, 1988[4] submitted in evidence by respondent PLDT, sufficiently shows that petitioner is guilty of fraud and serious misconduct which would warrant his dismissal under Article 282 of the Labor Code.[5]

Based on the aforesaid report, the stock balance of petitioner as of the end of April 26, 1988 consisted only of three hundred (300) feet of wires and one (1) MSROTD III (Gray Telephone Instrument).[6] However, as earlier mentioned, when petitioner was apprehended by the security inspector of respondent PLDT on April 27, 1988, the following materials owned by respondent PLDT were found in his possession, to wit: (a) one (1) roll of drop wire (1,000 feet); (b) three (3) telephone instruments; (c) one hundred (100) feet of parallel wire; and (d) fifty (50) feet of jacketed wire.

Except for his bare allegation, herein petitioner failed to present evidence to prove his claim that said materials were actually issued to him by private respondent and were under his accountability. His failure to justify or validly explain his possession over those materials, which are patently in excess of and/or were not at all declared in his I & R Daily Material Consumption and Work Report, is a sufficient basis for the loss of confidence of respondent PLDT due to his serious misconduct and breach of trust.

Loss of confidence is a valid ground for dismissing an employee and proof beyond reasonable doubt of the employee's misconduct is not required to dismiss him on this charge. It is sufficient if there is "some basis" for such loss of confidence or if the employer has reasonable ground to believe or 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.[7]

It has been repeatedly held by this Court, in a long line of decisions, that where an employee has been guilty of breach of trust or his employer has ample reason to distrust him, a labor tribunal cannot deny the employer the authority to dismiss the employee.[8] An employer cannot be compelled to continue with the employment of a person who was guilty of breach of trust towards his employer and whose continuance in the service of the latter is patently inimical to its interests.[9] The law, in protecting the rights of the laborer, authorizes neither oppression nor self-destruction of the employer.[10]

Honesty and integrity are the primary considerations in petitioner's position. The nature of his work requires that his actuations should be beyond suspicion. Our empathy with the cause of labor should not blind us to the rights of management. As we have held, this Court should help stamp out, rather than tolerate, the commission of irregular acts whenever these are noted. Malpractices should not be allowed to continue but should be rebuked.[11]

Considering, however, the circumstances of this case, the fact that no economic loss was sustained by private respondent, and the number of years in service of herein petitioner, we feel that, as we have heretofore ruled,[12] it would be just and reasonable that respondent Philippine Long Distance Telephone Company be required, and it is hereby so directed, to pay petitioner the corresponding separation pay.

WHEREFORE, with the foregoing modification, the assailed decision and resolution of respondent National Labor Relations Commission are hereby AFFIRMED.

SO ORDERED.

Paras and Padilla, JJ., concur.

Melencio-Herrera, (Chairman), J., on leave.

[1] Rollo, 1-21.

[2] Ibid., 26.

[3] Ibid., 28.

[4] Original Record, 67-74.

[5] Art. 282. Termination by employer. - An employer may terminate an employment for any of the following just causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

(b) Gross and habitual neglect by the employee of his duties;

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and

(e) Other causes analogous to the foregoing.

[6] Original Record, 74.

[7] Reyes vs. Zamora, etc., et al., 90 SCRA 92 (1979), citing Nevans, et al. vs. Court of Industrial Relations, et al., 23 SCRA 1321 (1968); Valladolid vs. Inciong, et al. 121 SCRA 205 (1983).

[8] National Labor Union, Inc. vs. Standard Vacuum Oil Company, et al., 73 Phil. 279 (1941); Reynolds Philippines Corporation vs. Eslava, et al., 137 SCRA 259 (1985); Metro Drug Corporation vs. NLRC, et al., 143 SCRA 132 (1986).

[9] San Miguel Brewery, Inc. vs. National Labor Union, 97 Phil. 378 (1955); International Hardwood and Veneer Co. of the Philippines vs. Leogardo, etc., et al., 117 SCRA 967 (1982); Engineering Equipment, Inc. vs. NLRC, et al., 133 SCRA 752 (1984).

[10] Manila Trading & Supply Co. vs. Zulueta, et al. 69 Phil. 485 (1940).

[11] Filipro, Incorporated vs. NLRC, et al., 145 SCRA 123 (1986).

[12] Filipro, Incorporated vs. NLRC, et al., supra; San Miguel Corporation vs. Deputy Minister of Labor and Employment, et al., 145 SCRA 196 (1986).

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