

OSCAR L. PILI, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION, JOHNSON AND JOHNSON (PHIL.), INC., DANTE MORANTE AND PRIMO H. MENDOZA, JR., RESPONDENTS.

G.R. No. 96895. January 21, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

Petitioner Oscar L. Pili was hired by Johnson and Johnson (Phil.), Inc., hereinafter referred to as respondent company on 13 July 1978. He became a regular employee sometime in July 1980. On 4 March 1985, respondent company issued to petitioner a termination letter effective 6 March 1985 for violation of the company's "Personnel Practice Policy." Respondent company, as a matter of policy, prohibits the hiring and placement of personnel who are related to its employees within the fourth degree of affinity or consanguinity. Petitioner was charged with falsifying his application for employment when he concealed the fact that he had an uncle (his mother's brother) who was already employed by the respondent company.

Petitioner protested his dismissal and asked that the dispute be referred to and settled by the Grievance Committee in accordance with the Grievance Procedure outlined in the collective bargaining agreement between the respondent company and the Johnson and Johnson Labor Union, the sole bargaining representative of the employees in the company. The Grievance Procedure basically consists of levels or "Steps" wherein a grievance can be discussed.

On 18 March 1985, the Grievance Committee under Step I was convened. Petitioner asked that the application forms he allegedly falsified be shown, but the request was denied. Petitioner also alleged that he was discriminated upon (with his dismissal) since other employees with relatives in the company had not been similarly dismissed. Petitioner moreover denied that he falsified his application to conceal his relatives employed in the company. The Committee ignored the explanation and upheld the dismissal. Petitioner then elevated the grievance to Step II but the Committee refused to hear and settle the same. Petitioner made several formal requests to the officers of the labor union for assistance in settling the dispute but the latter in a general membership meeting considered the case closed. Petitioner tried to elevate the grievance to Step III but he was likewise unsuccessful.^[1]

Petitioner then filed a case for illegal dismissal, unfair labor practice, discrimination and violation of Batas Pambansa Bilang 130 against the respondent company and impleaded Dante Morante and Primo H. Mendoza, Jr., both officers of the Johnson and Johnson Labor Union. After hearing the case, the Labor Arbiter rendered a decision on 31 May 1989, the dispositive portion of which reads:

"WHEREFORE, in view of all the foregoing considerations, judgment is hereby rendered, ordering the respondent company to reinstate the complain-ant to his former position without loss of senior-ity right and other privileges, and to pay him full back wages from the time of his dismissal to his actual reinstatement, plus attorney's fee equivalent to Ten Percent (10%) of the total monetary award; however the claim for damages is

dismissed for lack of merit.

SO ORDERED.” [2]

Respondent company appealed to the National Labor Relations Commission, herein public respondent. A Writ of Execution Pending Appeal having been issued by the labor arbiter on 31 May 1989, herein public respondent issued a resolution dated 29 November 1990 the latter portion of which reads:

“Equity, We find in the present circumstances, will be served better for complainant to be paid his salaries from the time stated in the Writ of Execution (31 May 1989) up to the promulgation of this resolution.

“ACCORDINGLY AND IN CONFORMITY WITH THE FOREGOING, the assailed decision dated 31 May 1989 is hereby SET ASIDE and a new one entered finding the complainant’s dismissal to be with just cause.

“Respondent-appellant is ordered to pay complainant-appellee’s his salaries (sic) (pending the resolution of this appeal) from 31 May 1990 (sic), as fixed in the Writ of Execution up to the promulgation of this resolution. SO ORDERED.” [3]

In this Petition for Certiorari, petitioner contends that public respondent Commission’s resolution is not in accordance with law and was issued with grave abuse of discretion because

“I. THE DISMISSAL OF PETITIONER WAS NOT FOR A JUST AND VALID CAUSE AS CORRECTLY FOUND BY THE HONORABLE LABOR ARBITER DOMINADOR CRUZ AND LATER, ON APPEAL BY THE HONORABLE PRESIDING COMMISSIONER EDNA BONTO-PEREZ (in a dissenting opinion).

“II. THE DISMISSAL OF PETITIONER VIOLATED HIS RIGHT TO DUE PROCESS x x x

“III. THE HONORABLE COMMISSION LIMITED THE AWARD OF BACKWAGES TO PETITIONER FROM MAY 31, 1989 UP TO THE PROMULGATION OF ITS DECISION WITHOUT FACTUAL AND LEGAL BASIS.”[4]

The validity of petitioner’s dismissal by the respondent company can be examined from two (2) perspectives, namely: (1) Dismissal because of the policy of the respondent company against the hiring of relatives of employees within the fourth degree of affinity or consanguinity, and (2) Dismissal because of the alleged falsification in petitioner’s application form.

To be sure, respondent company cannot be denied the right to prescribe rules and regulations in the hiring of employees in the exercise of its management prerogative. Petitioner therefore can be validly dismissed for violating the policy of the company against the hiring of relatives of incumbent employees within the degrees earlier stated. In addition, it will be noted that respondent company dismissed the petitioner not only for violation of said company policy but for falsification of his application for employment, by concealing his relationship to an uncle-employee, in violation of the aforementioned policy.[5]

It would seem that the determination of whether or not petitioner was validly dismissed becomes complex in the presence of two (2) causes for dismissal, either of which can be a valid cause for dismissal. A careful study of the circumstances surrounding this case however reveals that both causes for dismissal are anchored on whether or not there was actually a falsification in the application form accomplished by petitioner.

The Solicitor General, in a Comment on the Petition, which does not support the position of herein public respondent, presents four (4) arguments to support the petitioner’s allegation that there was illegal dismissal:

“First, petitioner had no reason to conceal the employment of his uncle in the same company. The first Application for Employment did not state the prohibition against the hiring of relatives within the designated

degrees. Neither was petitioner verbally informed thereof. In all appearances, petitioner acted in good faith and was interested only in obtaining employment and no more. Secondly, petitioner, assuming that he had acted in bad faith, would have taken steps to ensure that the first Application for Employment would not stir any suspicion. He would have accomplished an Application for Employment devoid of erasures. In the instant case, the subject Application for Employment immediately invites a second look. This is so because the name ‘Moises Lagatic’ remains visible and readable despite the attempt to cross it out. Third, petitioner’s actuations also prove his good faith. He vehemently protested without hesitation the accusation against him. He was consistent in his claim that he made no omissions on his first Application for Employment (Records, pp. 103-105; 128-129). Fourth, physical evidence presented also agrees with petitioner’s thesis. Careful examination of the first Application for Employment shows that the pen used to superimpose the word ‘None’ on the word ‘Yes’ and in the attempt to cross out the name ‘Moises Lagatic’ is distinct from that used by petitioner. Natividad, the Materials Manager, agreed to this observation, thus:

“Q

And opposite the name just opposite that word name and then cross(ed) out in ink, do you know who cross(ed) out this name?

“A

I could not tell who cross(ed) this out although the ink also used is almost the same.” (TSN, August 19, 1987, pp. 29-30, underscoring for emphasis)

“It is, therefore, obvious that petitioner’s first Application for Employment had been tampered with.

“In the Application for Employment which petitioner signed in July 1980, he wrote “Yes” in reply to the question: “Have you any relatives or friends in the company?” and thereafter the name “Herminio Gener”, designating him as a “friend”. Petitioner did not write “Moises Lagatic” anymore for three (3) reasons. First, there was only one line or space on which petitioner could write the name of his relative or friend. Second, he wrote the name of his friend to acknowledge a debt of gratitude since it was the latter who helped him in his employment with private respondent company. Third, he had already identified “Moises Lagatic” as a relative in his first Application for Employment.”[6]

The portion of the Labor Arbiter’s decision relevant to this issue states:

“x x x A careful examination of the aforesaid application, however, reveals that the complainant wrote the name of his relative Lagatic but the same was crossed out for one reason or another. If the complainant’s intention was to conceal the name of his uncle, he would not have written it, or if after writing the same he changed his mind, he would have simply asked for another application to be filled up without stating the name Lagatic, as contended by the complainant and correctly so. Moreover, a close scrutiny of the application reveals that it was passed upon by management with an imprimatur ‘OK’ written by the interviewer of then applicant Pili and approved by the company vice president for manufacturing, consequently the respondent is estopped from contesting it as laches has already crept in.”[7]

From the foregoing, it is clear that there is no evidence to support respondent company’s claim that petitioner was the person who crossed out the entries in the application. The Labor Arbiter’s findings regarding the entries in the application form, unfortunately, do not discuss this issue in detail but when the employee denies having made any alterations[8] only a clear showing that the employee indeed made the alterations can be a valid cause for dismissal based on the falsification. In the case at bar, the alleged falsification in the application form was supposed to have been committed in July 1978. Respondent company approved the application and made petitioner a regular employee sometime in July 1980.

It took almost seven (7) years before respondent company dismissed the petitioner for allegedly falsifying his application form. This Court finds it hard to accept respondent company's allegation that it was only sometime in February 1985 that it was discovered that petitioner had a relative within the degree prohibited by company policy.[9] If the alterations in the application forms were in fact present in 1978, it would be more logical to presume that respondent company would have tried to verify the accuracy and truth of the entries before approving the application, considering that the entries pertain to an important company policy regarding the qualification of an individual to be employed. And even if it is assumed that the alterations were made by petitioner in 1978, respondent company by approving the application can be considered to have waived the company policy against hiring of relatives of employees within the degrees previously stated, and since no deliberate falsification or concealment was proved, it follows that there is no just cause for dismissal.

The constitutional guarantee of protection to labor and security of tenure,[10] requires that an employer can terminate the services of an employee only for valid and just causes which must be supported by substantial evidence.[11] In the case at bar, the alleged falsification and/or concealment was not proven. There being a doubt on whether or not the alterations were committed by petitioner and considering that respondent company, which had the opportunity to verify the accuracy and truth of the alleged alterations at an earlier time, did not do so but instead waited for almost seven (7) years, this Court in upholding the constitutional mandate to protect the rights of the working man and to resolve any slight doubts in favor of labor,[12] rules in favor of petitioner Oscar Pili.

Furthermore, the dismissal of petitioner without the benefit of a hearing prior to his termination violated his constitutional right to due process which requires that the person sought to be dismissed must be given a chance to answer the charges against him before he is dismissed. Petitioner was allowed to avail of the grievance procedure only after he had been dismissed on 6 March 1985. The due process requirement in the dismissal of employees is different from the due process requirement in other labor dispute proceedings; both requirements must be separately observed.[13]

WHEREFORE, the Petition is GRANTED. The resolution of public respondent Commission is hereby ANNULLED and SET ASIDE. The private respondent is ordered to reinstate petitioner Oscar L. Pili to his former or equivalent position without loss of seniority rights and other bene-fits, with backwages equivalent to three (3) years, without qualification and deduction, to pay attorney's fees equivalent to ten percent (10%) of the total award and to pay the petitioner One Thousand Pesos (P1,000.00) for violation of petitioner's right to due process.[14]

SO ORDERED.

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

[1] Decision of Labor Arbiter dated 31 May 1989, Rollo, pp. 38-40

[2] Rollo, p. 41

[3] Rollo, pp. 28-29

[4] Rollo, p. 8

[5] Rollo, p. 40

[6] Rollo, pp. 102-104

[7] Rollo, pp. 40-41

[8] Rollo, p. 35

[9] Rollo, p. 59

[10] Article XIII, sec. 3, Constitution

[11] Manila Electric Company v. NLRC, G.R. No. 60054, 2 July 1991, 198 SCRA 681

[12] Chartered Bank Employees Association v. Ople, G.R. No. L-44717, 28 August 1985, 138 SCRA 273

[13] Hellenic Philipines Shipping, Inc. v. Siete, G.R. No. 84082, 13 March 1991, 195 SCRA 179

[14] Wenphil Corporation v. NLRC, G.R. No. 80587, 8 February 1989, 170 SCRA 69

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