

**MAMERTO B. ASIS, PETITIONER, VS. MINISTER OF LABOR AND EMPLOYMENT, CENTRAL AZUCARERA DE PILAR, AND EMMANUEL JAVELLANA, RESPONDENTS.***G.R. Nos. 58094-95. March 15, 1989*

Ponente: NARVASA, J.

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The facts of this case depict a picture that is hardly edifying: avidity trying to wear the mantle of right. The facts raise a twofold issue: whether a company which has been haled to court by its own in-house counsel is obliged to continue his employment and entrust its legal affairs to him, specially when his cause of action has been shown to be devoid of merit; and whether a firm is bound to retain in its service a personnel manager who has incited the very employees under his supervision and control to file complaints against it. Asserting a right to sue his employer for a legitimate grievance without meriting retaliatory action, the petitioner claims that his dismissal for such conduct or on the ground, essentially, of loss of confidence, was illegal; and he asks this Court to annul the judgment of the respondent Commission, which upheld the termination of his services in respondent company. Said claim finds no support in either the law or the established facts and must, therefore, be rejected.

The petitioner was appointed Legal Counsel of the Central Azucarera de Pilar.[1] Later, concurrently with his position as Legal Counsel, he was named Head of its Manpower and Services Department.

In addition to his basic salaries and other fringe benefits, his employer granted him, and a few other officials of the company, a monthly ration of 200 liters of gasoline and a small tank of liquefied petroleum gas (LPG).<sup>1</sup> This monthly ration was temporarily revoked some five (5) years later as a cost reduction measure of the Central.<sup>2</sup> The petitioner and the other officials adversely affected moved for reconsideration. Their plea was denied.

The petitioner then commenced an action against the Central with the Regional Office of the Ministry of Labor and Employment, seeking restoration of his monthly ration of gasoline and LPG which, as aforesaid, had been temporarily suspended. The case was docketed as LRD Case No. 1632.

Shortly afterwards, he filed another action against his employer, docketed as LRD Case No. 1685, this time complaining against the Central's memorandum ordaining his relief (by being placed on leave of absence) as the Central's Legal Counsel and Head of the Manpower Services Department. Impleaded by the petitioner as co-respondent was Emmanuel Q. Javellana, the Finance Manager and Comptroller of the Central, who had signed the memorandum for his relief.<sup>3</sup> The petitioner theorized that he had in effect been dismissed, illegally.<sup>4</sup>

The two cases were jointly heard and decided by the Regional Director. The latter's judgment<sup>5</sup> was for the petitioner's reinstatement to his former positions without loss of seniority, benefits and other privileges, the payment to him of back wages from date of his relief up to time of reinstatement, and the delivery to him of the monthly benefits from the time of their temporary revocation up to actual restoration or, at his option, the money equivalent thereof.<sup>6</sup>

The Deputy Minister of Labor however reversed this decision of the Regional Director, on appeal taken by the Central; the Deputy Minister ordered the dismissal of the petitioner's complaint.<sup>7</sup> The Deputy Minister found that the evidence satisfactorily established that the Central's suspension of the petitioner's and others' monthly ration of gasoline and LPG, had been caused by unavoidable financial constraints; that such a suspension, in line with its conservation and cost-saving policy, did not in truth effect any significant diminution of said benefits, since the petitioner was nevertheless entitled to reimbursement of the actual amount of gas consumed; that petitioner had encouraged his co-employees to file complaints against the Central over the rations issue, and this, as well as his institution of his own actions, had created an atmosphere of enmity in the Central, and caused the loss by the Central of that trust and confidence in him so essential in a lawyer-client relationship as that theretofore existing between them; and that under the circumstances, petitioner's discharge as the Central's Legal Counsel and Head of the Manpower & Services Department was justified. The Deputy Minister's order of dismissal was however subsequently modified, at the petitioner's instance, by decreeing the payment to the latter of separation pay equivalent to one month's salary for every year of service rendered.<sup>1</sup>

The petitioner theorizes that apart from the fact that the Deputy Minister lacked jurisdiction to entertain the Central's appeal from the decision of the Regional Director, he had gravely abused his discretion in reaching his factual conclusions, pejoratively described as guesswork and speculation.

The petitioner's theory of the Deputy Minister's lack of jurisdiction, founded on the tardy payment by the Central of the appeal fee of P25.00, is quickly disposed of by simply adverting to our holding in *Del Rosario & Sons Logging Enterprises, Inc. v. NLRC*,<sup>2</sup> to wit:

It may be that, as held in *Acda vs. M0LE*, 119 SCRA 306 [1982], payment of the appeal fee is by no means a mere technicality but is an essential requirement in the perfection of an appeal. However, where as in this case, the fee had been paid, unlike in the *Acda* case, although payment was delayed, the broader interest of justice and the desired objective of resolving controversies on the merits demanded that the appeal be given course as, in fact, it was so given by the NLRC. Besides, it was within the inherent power of the NLRC to have allowed the late payment of the appeal fee.

As regards the temporary revocation of the petitioner's monthly ration of fuel, suffice it to point out that, as the Solicitor General stresses, this had been occasioned by force of circumstances affecting the Central's business. The monthly ration was not a part of his basic salary, and is not indeed found in any of the management payroll vouchers pertinent to the petitioner.<sup>3</sup> Moreover, the adverse consequences of the suspension of the monthly rations had been largely if not entirely negated by the Central's undertaking to reimburse the petitioner for his actual consumption of fuel during the period of suspension. These facts are entirely distinct from those obtaining in the case of *States Marine Corporation and Royal Line, Inc. v. Cebu Seamen's Association, Inc.*,<sup>1</sup> invoked by petitioner and thus preclude application of the ruling therein laid down to the case at bar.

A review of the record demonstrates that there is substantial evidence supporting the factual findings of the respondent Deputy Minister. Said findings, as well as the legal conclusions derived therefrom, cannot be said to have been rendered with grave abuse of discretion, and will thus be affirmed. In fine, and as petitioner could not but have realized from the outset, neither he nor any other employee similarly situated had any legitimate grievance against the Central.

WHEREFORE, the petition is DISMISSED for lack of merit, with costs against petitioner.

Cruz, Gancayco, Griño-Aquino and Medialdea, JJ., concur.

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[1] After a 6-year stint as Assistant Legal Counsel dating from April, 1967; at the same time he was assigned to

take charge of the Personnel and Labor Relations Section: Rollo, p.129.

1 Rollo, p.134

2 By memorandum dtd. June 19, 1978 of the Central's General Manager; Rollo, pp. 52-53

3 Rollo, p. 53

4 Javellana afterwards acknowledged, at the hearing of LRD Case No. 1632 that the Central was indeed terminating the petitioner's services.

5 Rendered on May 9, 1979

6 Rollo, p. 59

7 Id., p.63

1 Id., p.67

2 Decision promulgated on May 31,1985, 136 SCRA 669,672

3 Exh. F, Rollo, p.134

1 7 SCRA 294 (1963), in which it was held that the daily subsistence rations given to the crew of sea-going vessels while on a voyage and during the duration of their contract, could not be withdrawn after the effectivity of the Minimum Wage Law, these being given “not as part of their wages but as a necessary matter in the maintenance of the health and efficiency of the crew personnel during the voyage,” the seamen being expected to serve regardless of the “stress and strain concomitant to bad weather, unmindful of the dangers that luck ahead in the midst of the high seas”.

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