

NEEDLE QUEEN CORPORATION, PETITIONER, VS. MANUELA A. NICOLAS, ET AL., THE DIRECTOR OF THE NATIONAL CAPITAL REGION OF THE MINISTRY OF LABOR AND THE MINISTER OF LABOR, RESPONDENTS.

G.R. Nos. 60741-43. December 22, 1989

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari under Rule 65 of the Rules of Court seeking the annulment of the Resolution of the respondent Minister of Labor dated January 22, 1982 (p. 56, Rollo) in cases NCR-STF-3-1894-80, NCR-STF-3-2039-80, NCR-STF-4-2150-80, entitled, “Manuela A. Nicolas, et al., Complainants, versus Needle Queen Corporation, Respondent,” which affirmed the order of the Regional Director awarding separation pay and other monetary benefits to complainants.

The antecedent facts are as follows:

On March 10, 1980, the Board of Directors of petitioner corporation decided to close its business and cease operations due to business losses and financial reverses. Thus, the Board amended accordingly the corporation's Articles of Incorporation to provide for the dissolution of its existence. On the same date, the petitioner corporation terminated the employment of private respondents.

It was only on March 17, 1980 that petitioner corporation filed with the Ministry of Labor (now Department of Labor) an application for clearance to shutdown and/or report the termination of private respondents.

On March 21, 26, 31 and April 7, 1980, private respondents filed their complaints with the Ministry of Labor (now Department of Labor) for illegal dismissal, separation pay, unfair labor practice, non-payment of service incentive leave, emergency allowance, and 13th month pay, in opposition to the application for clearance to shutdown by petitioner.

On July 8, 1980, the Regional Director issued an order, the dispositive portion of which states:

“WHEREFORE, premises considered, respondent is hereby ordered to pay individual complainants separation pay benefits equivalent to one-half month salary for every year of service. Likewise, respondent is ordered to pay the complainants the deficiency in emergency allowance from 1977 up to 1979; service incentive leave for 1977 as well as the 13th month bonus owing to the complainants for 1977 and their proportionate bonus for the year 1980. The complaint for unfair labor practice is dismissed for lack of merit.

“SO ORDERED.” (pp. 43-44, Rollo)

Not satisfied with the order of the Regional Director, petitioner corporation appealed to the Minister of Labor (now Secretary of Labor). On January 22, 1982, the respondent Minister of Labor issued an order which provides, inter alia:

“After a careful review, we find no cogent reason to alter, modify or reverse the Order appealed from it being well supported by the facts and law applicable.

“WHEREFORE, the Order appealed from is hereby affirmed and the appeal of respondent dismissed, for lack of merit.

“SO ORDERED.” (p. 57, Rollo)

Hence, the instant petition was filed on the ground that the respondent Minister of Labor committed grave abuse of discretion tantamount to lack or excess of jurisdiction in affirming the order of the Regional Director.

Petitioner contends that the Regional Director had no legal basis and authority in ordering petitioner the payment of separation pay to respondents-employees for its failure to obtain a clearance from the Ministry of Labor before dismissing its employees; that such order is contrary to his (Regional Director) own finding that under the Labor Code, the closing or cessation of operation of the establishment or enterprise due to serious business reverses is a valid cause for termination of employment, in which case, the employees affected will not be entitled to reinstatement with backwages or to the payment of separation pay.

The contentions of petitioner are devoid of merit.

Article 283 of the Labor Code, then in force, provides, in part:

“ART. 283. Termination by employer. - An employer may terminate an employment without a definite period for any of the following just causes:

“a) The closing or cessation of operation of the establishment or enterprise, or where the employer has to reduce his workforce by more than one-half (1/2) due to serious business reverses, unless the closing is for the purpose of circumventing the provision of this Chapter;

“x x x.”

The foregoing provision clearly allows an employer to terminate the services of his employees in case of closure of business as a result of grave financial losses. As found by the Regional Director and Ministry of Labor, the petitioner corporation was compelled to shutdown its business establishment and dismiss the employees because of serious business losses as proven by the company's audited financial statements for the years 1978 and 1979. However, they also found that petitioner corporation did not comply with the clearance and/or report requirement under the Labor Code and its implementing rules before terminating the employment of complainants-employees.

The above findings being factual in nature are binding and conclusive upon Us, since there is no indication that they are unsubstantiated by evidence.

On the matter of the clearance requirement of the law, Article 278 Section (b) of the Labor Code, then in force, states:

“Article 278. x x x.

“x x x.

“(b) With or without a collective agreement, no employer may shut down his establishment or dismiss or terminate the employment of employees with at least one year of service during the last two years, whether such service is continuous or broken, without prior written authority issued in accordance with such rules and regulations as the Secretary may promulgate.

“x x x.” (emphasis ours)

Moreover, Rule XIV Section 2 of the Rules Implementing the Labor Code which was still in force at that time, likewise provides:

“Sec. 2. Shutdown or dismissal without clearance. - Any shutdown or dismissal without prior clearance shall be conclusively presumed to be termination of employment without a just cause. The Regional Director shall, in such case, order the immediate reinstatement of the employee and the payment of his wages from the time of the shutdown or dismissal until the time of reinstatement.”

It is undisputed that despite the legality and justifiableness of the ground for the dismissal of the employees, no clearance to terminate was secured by petitioner corporation prior to the termination of their employment. Hence, the dismissal of the employees must be conclusively presumed to be without just cause.

The prior clearance rule was not a “trivial technicality.” (Cebu Royal Plant (San Miguel Corporation) v. Deputy Minister of Labor, G.R. 58639, August 12, 1987). This requirement is part of due process which must not be denied the employee (National Labor Union v. NLRC, G.R. 61500, August 21, 1987, 153 SCRA 228). The fact that petitioner corporation shutdown and closed operations due to business reverses is immaterial. The Rules cited above are clear that clearance was likewise required before one could shutdown his business (Murillo, et al. v. Sun Valley Realty Inc., et al., G.R. No. L-67272, June 30, 1988, 163 SCRA 271).

Under the circumstances, where there was a valid and reasonable ground for the dismissal of the employee, but no prior clearance was obtained by the employer, the award of both backwages and separation pay would be unduly harsh. Payment only of separation pay to the dismissed employees is considered equitable under the premises (Batangas Laguna Tayabas Bus Co. (BLTB Co.) v. NLRC, G.R. No. 69875, October 28, 1988, 166 SCRA 721). In the case at bar, the separation pay shall be equivalent to one-half (1/2) month pay for every year of service computed from the date of employment to the date of the dismissal.

Petitioner further submits that the Regional Director gravely erred in ruling that the emergency cost of living allowance of P240.00 monthly is mandatory, and in ordering petitioner corporation to pay the deficiency of P50.00 a month to its employees from 1977 to 1979, who were paid only P192.00 a month.

Regarding this matter, the Regional Director made the following finding:

“With respect to the claim for emergency allowance, this Office finds that the complainants have not been paid the correct amount of emergency living allowance. To show the violation is to illustrate how respondent company computes the benefits of their employees. Thus, the company, for instance, obtained the equivalent daily allowance of each employee at P8.00 daily by dividing the applicable monthly allowance, let us say of P240.00 under PD 1634 by thirty (30) days and then multiply the daily allowance of P8.00 by the number of days actually worked by the employee which normally is 24 days a month to arrive at the sum of only P192.00 in our example. Thus, it could be seen that the rest days of the worker had been totally omitted in the formula, considering that in a given week there are six (6) working days, excluding a rest day. Therefore, by multiplying 24 days by P8.00 is equal to only P192.00 as against the mandatory monthly allowance of P240.00 or a deficiency of P50.00 to each of respondent's workers.” (pp. 42-43, Rollo)

The above findings bear great weight. Section 12 of the Rules Implementing New Emergency Living Allowance under PD 1634 which became effective on August 30, 1979 retained the same provision found in the old rules implementing PD 1123 which became effective on March 22, 1977. The rule states:

“Section 12. Allowances of full-time and part-time Employees. - Employees shall be paid in full the required monthly allowance regardless of the number of their regular working days if they incur no absences during the month. If they incur absences without pay, the amounts corresponding to the absences may be deducted from the monthly allowance provided that in determining the equivalent daily allowance for purposes of such deduction, the applicable monthly allowance shall be divided by thirty (30) days. (Underscoring supplied)

“x x x.”

The above rule requires that the full amount of the cost of living allowance mandated by law should be given monthly to each employee if the latter has worked continuously for each month, regardless of the number of the regular working days. The daily allowance which is arrived at by dividing the monthly allowance by thirty days applies only for purposes of deduction from the monthly allowance if the employee has not completed the whole month and has worked only for a certain number of days or has incurred absences without pay during the month. In any case, however, the amount of monthly allowance fixed by law cannot be reduced or diminished for those employees who worked for the whole month.

Further, findings of administrative agencies which have acquired expertise because their jurisdiction is confined to specific matters are generally accorded not only respect but even finality. Judicial review by the Supreme Court on labor cases does not go so far as to evaluate the sufficiency of the evidence upon which the proper labor officer or office based his or its determination but is limited to issues of jurisdiction or grave abuse of discretion (*Special Events and Central Shipping Office Workers Union v. San Miguel Corporation*, G.R. No. 51002-06, May 30, 1983, 122 SCRA 557).

Finally, petitioner's contention that it should not be made liable to pay service incentive leave and 13th month bonus for 1977 and bonus for 1980 is without merit. Aside from the weight given by this Court to the findings of the labor officers, the rule is also settled that in the interpretation of the labor laws and its implementing rules, this Court adopts the liberal approach which favors labor.

ACCORDINGLY, the petition is DISMISSED and the order of respondent Minister of Labor dated January 22, 1982, and the order of the Regional Director dated July 8, 1980 are hereby AFFIRMED.

SO ORDERED.

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

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