

SAN MIGUEL CORPORATION, PETITIONER, VS. THE DEPUTY MINISTER OF LABOR AND EMPLOYMENT, REGIONAL DIRECTOR DIOSCORA ARELLANO AND BIENVENIDO SOTO, RESPONDENTS.

G.R. Nos. 61232-33. December 29, 1983

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for certiorari to set aside the order of the respondent Regional Director dated September 14, 1979 and the decision of the respondent Deputy Minister of Labor and Employment dated September 21, 1981 on the petitioner's application for clearances to terminate the services of the private respondent.

The facts of the case are summarized by the respondent Deputy Minister of Labor and Employment as follows:

"x x x Complainant was employed by respondent on April 11, 1950 as a field warehouseman. Since then, he has received awards and commendations, including the coveted 'Salesman of the Year' as well as promotions, both in rank and salary. In 1967, he was appointed District Sales Supervisor with latest salary of P1,940.00 per month, plus monthly living allowance of P20.00 travelling allowance of P80.00 and housing allowance of P160.00. On January 16, 1978, complainant was relieved of his duties as District Sales Supervisor, pending investigation of his alleged involvement in the 'cash refunding of condemned shells'. On August 29, 1978, respondent filed with the Ministry a report of complainant's preventive suspension, illegal dismissal and illegal deduction of salary. Complainant's action was by way of opposition against his termination, consequently, the two actions were consolidated.

"Among complainant's duties as District Sales Supervisor was to condemn 'shells' which refer to empty wooden cases used in packing softdrinks bottles. Sometime in November 1977 complainant was instructed by Mr. Orlando Neri, then Plant Manager, Calamba Coca-Cola Plant to condemn all unrepairable shells in the Calapan and Pinamalayan Sales Office of the Company.

"In connection therewith, respondent charged complainant with the following infractions:

"On November 21, 1977, he ordered the sales office in Calapan, Mindoro to condemn 700 shells contained in miscellaneous slip No. 0226-A, but only 300 shells were allegedly destroyed. On November 23, 1971 he ordered also the sales office in Calapan, Mindoro to condemn 680 shells under miscellaneous slip No. 0228-A but only 228 shells were destroyed. On December 21, 1977, he likewise ordered same sales office to condemn 600 shells under miscellaneous slip No. 0234-A but only 480 shells were destroyed. Respondent further alleged that starting November 23, 1977, Juan Burgos, the Salesman-in-Charge of the Calapan Sales Office cash-refunded little by little the shells which were condemned but not actually destroyed and made it appear that they came from shells refunded by respondent's customers; that the process was repeated up to December 30, 1977 until Burgos was able to raise the amount of P4,860.00 which he allegedly gave to complainant; and that all the above happened at respondent's branch in Calapan, Mindoro. Respondent also alleged that on November 23, 1977, complainant ordered the sales office at Pinamalayan, Mindoro to condemn 1,000 shells under miscellaneous slip no. 0444 out

of which only 140 shells were destroyed; and that on December 5, 1977, he likewise ordered said sales office to condemn 2,000 shells under miscellaneous slip no. 6574 but only 1,728 were destroyed. Respondent charged that all these were made possible at the Pinamalayan Branch where complainant approached Ruperto Refria, Salesman-in-charge of the branch, who for fear of harassment, enlisted the help of Armando de las Alas, warehouseman; and that Refria was able to refund, in cash, for the period covering from November 2, 1977 the total amount of P1,360.00 which he allegedly gave to complainant.

"Relative to the foregoing, respondent alleged that complainant borrowed from Juan Burgos during the month of November and December, 1977 the amount of P4,860.00; that out of fear, Burgos gave the amount to complainant Hap Lee, one of respondent's customers, at its Calapan Sales Office; that said money represented the proceeds of cash refunds for shells owned by Hap Lee who requested the Calapan Sales Office to hold the money for safekeeping; that complainant allegedly told Burgos to replace the amount out of the cash refunds he could make from condemned shells. Likewise, respondent charged complainant with taking money from Ruperto Refria at the Pinamalayan Branch amounting to P1,360.00 where the same procedure for refunding out of the condemned shells was followed to raise the amount stated."

xxx xxx xxx

The petitioner based its application for clearance to terminate the private respondent on the grounds of falsification of company documents, abuse of authority, and unauthorized removal of company records.

Regional Director Dioscora C. Arellano gave clearance to terminate private respondent's employment because "the applicant corporation could have lost its trust and confidence on the subject employee, his further employment therefore would only worsen his relationship with the company on one hand and Soto and his fellow employees, particularly the witnesses on the other hand. The dispositive portion of her order reads:

"WHEREFORE, premises considered, clearance to terminate Bienvenido Soto is hereby Granted. Applicant company is however ordered to pay either the retirement pay of the said employee in accordance with the existing company policy or Collective Bargaining Agreement or his separation pay of one-half (1/2) month pay for every year of service at the option of subject employee."

Both parties appealed to the Ministry of Labor. Petitioner filed its appeal while private respondent filed a motion for reconsideration by way of appeal.

On September 21, 1981, Deputy Minister Vicente Leogardo, Jr., set aside the Decision of the Regional Director and entered a new order directing petitioner to reinstate private respondent with three (3) years backwages without qualification. The dispositive portion of the decision reads:

"WHEREFORE, the Order dated September 14, 1979 is hereby set aside, and a new one entered, ordering respondent to reinstate complainant Bienvenido Soto with three (3) years backwages without qualification."

A motion for reconsideration filed by the petitioner was denied on May 25, 1981.

Petitioner assigns the following grounds for the grant of the petition:

I

PUBLIC RESPONDENTS GRAVELY ABUSED THEIR DISCRETION IN RENDERING A DECISION WHICH IS NOT SUPPORTED BY ANY EVIDENCE AT ALL AND WHICH FAILS TO SQUARELY RESOLVE THE ISSUES RAISED IN VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS.

II

CONSIDERING THAT THE INSTANT CASE MAY NOT BE SUMMARILY RESOLVED, UNDER THE LABOR CODE, PUBLIC RESPONDENTS ACQUIRED NO JURISDICTION OVER THE SAME.

III

THE MINISTER OF LABOR AND (SIC) COMMITTED A GRAVE ABUSE OF DISCRETION AMOUNTING TO EXCESS OF JURISDICTION IN ORDERING THE REINSTATEMENT OF PRIVATE RESPONDENT DESPITE THE FACT THAT THE LATTER MISAPPROPRIATED COMPANY FUNDS AND BREACHED THE TRUST AND CONFIDENCE REPOSED UPON HIM BY HIS EMPLOYER.

We find no merit in the due process argument. We agree with the Solicitor General that, "to disregard an evidence is different from not considering it. The former implies prior consideration or deliberation, but the evidence is not given any weight for being of no value; the latter connotes the absence of examination or appraisal which is a due process violation."

The respondent Regional Director after considering the petitioner's evidence found it insufficient to support the charges raised in the application for clearance. The Regional Director, however, gave clearance to terminate the private respondent on the ground that the petitioner corporation could have lost its trust and confidence in the private respondent.

We find the consideration of the parties' evidence conducted by the regional director and the deputy minister sufficient to meet the standards of due process. However, we find that the conclusions of the respondent deputy minister are not supported by the facts which he examined.

Respondent Soto is not an ordinary worker limited to the handling of routine tasks in the company. He is the Coca-Cola District Supervisor covering sales offices in the two provinces of Oriental Mindoro and Batangas.

The salesman-in-charge of the Calapan Sales Office, Mr. Juan A. Burgos, and the warehouseman of the Pinamalayan Sales Office, Mr. Armando B. de las Alas testified during the investigation that their supervisor, Mr. Bienvenido L. Soto, would condemn a certain number of shells but not all would be destroyed. A portion of the condemned shells would be made to appear as shells returned by customers to whom cash refunds were given. In this way, the respondent was able to raise the money that he needed. It can be gathered from the records that the petitioner entrusts a considerable amount of business in a wide area in two provinces to the private respondent. The petitioner cannot successfully conduct its business much less compete with other softdrinks firms if it does not have full trust and confidence in its district sales supervisor.

The respondent Regional Director found that Mr. Soto's evidence consisted of "self-serving denials" but she wanted more concrete evidence of condemned shells being actually cash refunded together with receipts of the payments. She, moreover, concluded that puzzling questions remain unanswered because of insufficient evidence. The respondent Deputy Minister agreed with the Director's factual evaluations but made his own observations not based on the records on why he found it hard to believe that customers would allow branch employees to hold their cash refunds or money for safekeeping. He would also want the private respondent to be present when the anomalous refunding of shells was being effected. We stated in *Reyes v. Zamora* (90 SCRA 92):

"Loss of confidence is a valid ground for dismissing an employee, and proof beyond reasonable doubt of the employee's misconduct - apparently demanded by the Minister of Labor - is not required to dismiss him on this charge. (See *National Organization of Laborers and Employees v. Roldan*, 95 Phil. 727; *Phil. Refining Co. v. Garcia*, 18 SCRA 107; *Gatmaitan v. MRR*, 21 SCRA 191) It is sufficient if there is 'some basis' for such loss of

confidence; (*Galsim v. PNB*, 29 SCRA 293) or if the employer has reasonable grounds to believe, if not 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. (*Nevans v. CIR*, 23 SCRA 1321)"

Respondent Soto is one of the top officials of the petitioner in his district. A district sales supervisor must necessarily enjoy the full trust and confidence of the company in the area where he operates. His acts involving company funds, goods, and properties must be beyond suspicion. The trust and confidence in the private respondent having been lost, the respondent Regional Director acted correctly in allowing termination of employment but with retirement or separation benefits.

WHEREFORE, the decision of the respondent Deputy Minister is hereby SET ASIDE. The Order dated September 14, 1979 of the Regional Director allowing the termination of the private respondent's employment and ordering petitioner corporation to pay either the retirement pay of the said employee in accordance with existing company policy or the collective bargaining agreement or his separation pay of one-half (1/2) month pay for every year of service at the option of the subject employee is reinstated.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, and Relova, JJ., concur.

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